#### TRANSCRIPT OF RECORD

# Supreme Court of the United States

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, ET ALS PETITIONERS,

US

NATIONAL LABOR RELATIONS BOARD.

ON WHAT OF CERTIONARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT.

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### CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

#### In the Matter of

INTERNATIONAL TYPOGRAPHICAL UNION LOCAL
38, AFL-CIO AND INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 165 AFL-CIO AND ITS SCALE
COMMITTEE, INTERNATIONAL TYPOGRAPHICAL UNION, A.F.L.-C.I.O.

#### Case No. 1-CB-429

|   |          | 1-CB-430  |
|---|----------|---|
|   | 11.29.57 | Charge filed by Haverhill Gazette Company in                      |
|   |          | Case No. 1-CB-429   |
| - | 12.2.57  | Charge filed by Worcester Telegram Publishing                     |
|   |          | Company in 1-CB-430   |
|   | 2.6.58   | Complaint issued in 1-CB-429                                      |
|   | 2.6.58   | Complaint issued in 1-CB-430                                      |
|   | 2.6.58   | Order consolidating cases and notice of hearing issued            |
|   | 2.12.58  | Worcester Telegram Publishing Co. motion for<br>continuance dated |
|   | 2.13.58  | Order rescheduling hearing issued                                 |
|   | 2.14.59  |   |

Case No. 1-CB-429 sworn to
2.14.59 Answer of International Typographical Union and the Members of its Executive Council in Case No. 1-CB-430 sworn to

2.24.58 Answer of International Typographical Union, Local 38 in Case No. 1-CB-429 received

2.24.58 Answer of International Typographical Union Local 165 and its Scale Committee in Case No.
1-CB-430 received

3.5.58 Hearing opened in CA No. 58-203A before Judge D. J. Aldrich

|   | 3.11.58  | Order rescheduling hearing in consolidated cases.                  |
|---|----------|--|
|   |          | issued   |
|   | 3.18.58  | Hearing resumed in CA No.,58-203A case                             |
|   | 3.19.58  | Order rescheduling hearing in consolidated cases issued            |
|   | 3.26.58  | Order rescheduling hearing in consolidated cases                   |
|   |          | issued   |
|   | 4.2.58   | Hearing opened in consolidated cases                               |
|   | 4.29.58  | Hearing adjourned indefinitely in consolidated cases               |
|   | 5.1.58   | Hearing closed in CA No. 58-203A case                              |
|   | 5.8.58   | Order closing hearing in consolidated cases issued                 |
|   |          | by Trial Examiner Reeves R. Hilton                                 |
| , | 7.17.58. | Motion to correct record dated                                     |
|   | 9.9.58   | Decision & Determination of Dispute in case No.<br>1-CD-49 issued. |
|   | 12.17.58 | Intermediate Report issued by the Trial Exam-                      |
|   | . ,      | iner   |
|   | 12.22.58 | Erratum issued by the Trial Examiner                               |
|   | 1.22.59  | *Worcester Telegram Publishing Company's ex-                       |
|   |          | ceptions to the Intermediate Report received                       |
| - | 1.23.59  | *Petitioners' exceptions to the Intermediate Re-                   |
|   |          | port received  |
|   | 1,23.59  | Petitioners' request for oral argument received                    |
|   |          | (Denied)   |
|   | 1:23.59  | General Counsel's exceptions to the Intermediate Report received   |
|   | 4.17.59  | Decision and Order issued by the National Labor                    |
|   |          | Relations Board  |
|   | * * *    |  |

One of the Charging Parties in the proceeding before the Board.

Portions of stenograph transcript of testimony in case Nos. 24 of 1769 1807 and 2-CA-4967.

<sup>••</sup> Respondents in the proceeding before the Board are petitioners in the instant proceeding.

#### COMPLAINT : Case No. 1-CB-429

It having been charged by Haverhill Gazette Company, 179 Merrimack Street, Haverhill, Massachusetts (herein called Haverhill), that International Typographical Union, AFL-CIO, 2020 No. Meridian Street, Indianapolis, Indiana (herein called ITU), and International Typographical Local 38, AFL-CIO, 28 Wayne Street, Bradford, Massachusetts (herein called Local 38), havé engaged in and are now engaging in unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 61 Stat. 136 (herein referred to as the Act), the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the First Region, designated by the Board's Rules and Regulations—Series 6, as amended, Section 102.15 hereby issues this complaint and alleges as follows:

I. A copy of the Charge was served by registered mail upon ITU and Local 38 on November 29, 1957.

II. At all times material herein, Haverhill has been and is engaged in the business of publishing a daily newspaper called the Haverhill Gazette, maintaining its principle office, publishing plant, warehouses and other facilities in the city of Haverhill, Massachusetts.

III. During the past year, Haverhill, in the course and conduct of its publishing operations, has held membership in, or subscribed to, various interstate news services, including United Press Association and Associated Press, advertised nationally sold products, including automobiles and appliances, and had gross revenue from said publishing operations in excess of \$500,000.

IV. At all times material herein, Haverhill has been and is engaged in commerce within the meaning of Sections 2 (6) and (7) of the Act.

V. At all times material herein, ITU and Local 38 have

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been and are labor organizations within the meaning of Section 2 (5) of the Act.

VI. At all times material herein, Local 38 has been a constituent local union of ITU existing under and by virtue of the constitution, bylaws and General Laws of ITU; and at all times material herein, the various constituent unions of ITK, including Local 38, have conducted their bargaining negotiations with employers, including Haverhill, pursuant to and in accordance with the constitution, bylaws and General Laws of ITU, and pursuant to and under the direction of ITU and for the purpose, among others, of effectuating ITU's national collective bargaining policy.

VII. At all times material herein, Local 38 and ITU were the representatives for the purposes of collective bargaining of a majority of the employees of Haverhill in a unit appropriate for collective bargaining defined as the employees engaged in composing room work.

VIII. Since on or about May 29, 1957, Local 38 and ITU have caused and attempted to cause, and continue to cause and attempt to cause, Haverhill to discriminate against its employees or applicants or prospective applicants for employment in respect to the hire or tenure or terms or conditions of their employment, in violation of the Act: In support hereof, it is alleged as follows:

a. ITU and Local 38 have insisted as a condition precedent to the execution of a collective bargaining contract, that Haverbill agree, in substance, that the General Laws of ITU be incorporated into and made part of any collective bargaining contract executed by Local 38 and Haverbill.

b. ITU and Local 38 have insisted, as a condition precedent to the execution of a collective bargaining contract with Haverhill, that said contract contain provisions, including provisions of the General Laws of ITU, which would require Haverhill (i) to employ only members of

Local 38 or ITU, (ii) to give preference to such members over persons not members of Local 38 or ITU, or of any constituent local thereof, in connection with hiring, increase or decrease in the work force, and employment of substitutes, and (iii) to delegate to Local 38 control over the seniority of composing room employees.

c. Among the provisions referred to above in subparagraph b, were provisions in respondents' proposed contract

providing, in substance, as follows:

1. Article 1, Section 4: All composing room work shall

be performed only by journeymen and apprentices.

2. Article 1, Section 6: The hiring, operation, authority and control of the composing room shall be exercised exclusively through the foreman of the composing room, who shall be a member of the union, and, in his absence, the foreman-in-charge shall so function. All orders, instructions, reprimands, etc., must be given through the foreman who shall have the right to assign men to any composing room work he deems necessary.

3. Article 1, Section 8: The General Laws of the ITU shall govern relations between the parties on those subjects concerning which no provision is made in the contract.

4. Article 1, Section 9: Haverhill agrees not to require employees to perform composition or other work executed or to be further worked on, wholly or in part, by employees working in plants declared unfair by ITU or Local 38.

5. Article 2, Section 8: Persons considered capable substitutes by the foreman shall be deemed competent to fill regular situations, and shall be given preference in the filling of vacancies in the regular work force, and also extra work. The substitute eldest in continuous service shall have prior right in the filling of the first vacancy, and also extra work.

6. Article 2, Section 11: Employees shall have the right to put on substitutes in their absence.

- , 7. Article 3, Section 5: Local 38 shall have the right to refuse to allow any person to work as an apprentice for Haverhill if Haverhill does not have the equipment to afford instructions being given in the different branches of work agreed upon.
- 8. Article 3, Section 6: No apprentice may change shifts or employers without the consent of Local 38.
- 9. Article 4, Section 9: No employee shall be required to cross a picket line established because of an authorized strike by any other ITU local union.
- d. Among the provisions in the General Laws of the ITU referred to in subparagraphs a and b above, were provisions providing, in substance, as follows:
- True that all composing room work, or any machinery or process appertaining to printing and the preparations therefor, belong to ITU, and all local unions of ITU are directed and required to reclaim jurisdiction and control over all such work being performed by persons who are not members of ITU or any ITU local union.
- 2. Article I, Section 4: Any person before entering the trade as an apprentice must first be approved by the ITU local union.
- 3. Article I, Section 5: No apprentice may leave the employ of one employer and enter the employ of another employer without the written consent of the president of the ITU local union.
- 4. Article I, Section 7: At the end of the first year, if an apprentice proves competent and the foreman and apprentice committee recommend him for membership he must be admitted to the union as an apprentice member.
- 5. Article I, Section 11: Beginning with the second year, apprentices must be in possession of an apprentice working card issued by the union.
  - 6. Article I, Section 19: At least two members of the

local union must be regularly employed as journeymen before the employer can engage an apprentice.

- 7. Article V, Section 11: All foremen and journeymen employees must be active members in good standing of the union.
- 8. Article VII, Section 1: Only members of ITU shall be permitted to operate the various composing room machines and devices used to process the products thereof.
- 9. Article VII, Section 5, Article VIII: Only members in good standing of ITU may be employed in installing, operating, maintaining, servicing and repairing the various machines and other mechanical devices used in composing, imposing, processing and casting of typing, type matter, slugs and other material of any kind, whether operated mechanically or automatically and wherever located.
- 10. Article VII, Section 6: Only members in good standing of ITU or the constituent local thereof may be employed upon all work necessary to processing the product of photo type setting machines.
- 11. Article VII, Section 7: Only members of ITU may be employed to perform duties in the paste makeup operation using reproduction proofs.
- 12. Article V, Section 9, Article X: A member may select a substitute in his absence from work and such substitute shall be a member of the union and selected in accordance with the priority standing system of members established and maintained by the ITU local union and posted in its chapel.
- 13. Article X: In filling vacancies created by the absence of an employee for more than 30 calendar days only a member of ITU or the constituent local may be employed and such employee shall be selected in accordance with the priority system established by the local.
- 14. Article V, Section 1; Article X: Any foreman filling a vacancy must give priority to the substitute listed on the

priority list established by the local as oldest in continuous service, and the foreman shall be governed by provisions of the ITU General Laws.

- 15. Article V: In decreasing or increasing the work force the foreman shall be governed by the ITU General Laws and increase or decrease the force in accordance with the priority system established and maintained by the local union.
- 16. Article V. Section 8: Discharged members of the ITU shall have the right to appeal in accordance with the ITU laws and the right to challenge the fairness of any rule of the imployer which caused the discharge.

IX. On or about and since May 29, 1957, ITU and Local 38 have failed and refused to bargain in good faith with Haverhill. In support hereof, it is alleged as follows:

- a. ITU and Local 38 adamantly insisted, and insist, as a condition precedent to a contract, that Haverhill agree to the provisions hereinabove described in paragraph VIII, and its subparagraphs, and other provisions of the General Laws, which would require Haverhill to discriminate against employees, and applicants and respective applicants for employment, in violation of Section 8 (a) (3) of the Act.
  - b. ITU and Local 38 adamantly insisted, and insist, as a condition precedent to a contract, that Haverhill agree to incorporate in, and make part of, a contract the ITU General Laws and refused to bargain with respect to the provisions thereof, although requested to do so by Haverhill.
  - e. ITU and Local 38 adamantly insisted, and insist, as a condition precedent to the execution of a collective bargaining contract with Haverhill for the employees in the appropriate unit referred to above in paragraph VII (1), that Haverhill also bargain with respect to the hire, tenure, and terms and conditions of employment of supervisors; (2) that Haverhill also bargain with respect to the hire, tenure, and terms and conditions of employment of persons and

employees not included within the appropriate unit and/or classifications not in existence and not included within said appropriate unit.

d. ITU and Local 38 adamantly insisted, and insist, as a condition precedent to the execution of a contract, that Haverhill agree to provisions (1) permitting employees to select their substitutes, and (2) that said employers select only union members as foremen of the composing room, and thereby ITU and Local 38, insisted, and insist, that Haverhill relinquish to ITU and Local 38, and their members, the management prerogative of hiring employees and designating supervisors.

e. ITU and Local 38 adamantly insisted as a condition precedent to the execution of a contract, that Haverhill select and designate only a union member as foreman of the composing room and Haverhill's representative for the purpose of collective bargaining and adjusting grievances, and since October 25, 1957, ITU and Local 28 have engaged in, and induced, encouraged and instigated Haverhill's employees to engage in, a strike against Haverhill with an object of forcing Haverhill to agree to said demand, thereby restraining and coercing Haverhill in the selection of its representative for purposes of collective bargaining or the adjustment of grievances, in violation of Section 8 (b) (1) (B) of the Act.

f. ITU and Local 38 adamantly insisted, and insist, as a condition precedent to the execution of a contract, that Haverhill agree to contract provisions providing, in substance and effect, that said labor organizations have the right to engage in, and to induce or encourage Haverhill's employees to engage in, a strike or concerted refusal in the course of their employment to use, manufacture, process, or otherwise handle or work on goods, articles, materials, or commodities or to perform services, with an object of foreing or requiring Haverhill to cease using handling or

otherwise dealing in the products of another producer, processor, or manufacturer or to cease doing business with another person, such strike, or inducement or encouragement of Haverhill's employees being violative of Section 8 (b) (4) (A) of the Act.

X. Haverhill refused to agree to the contract provisions described above in paragraphs VIII and IX, and the subparagraphs thereto, whereupon, on or about and since October 25, 1959, ITU and Local 38 have engaged in, and directed, instigated and encouraged the employees of Haverhill to engage in, a strike against Haverhill with an object of forcing and requiring Haverhill to agree to said contract provisions.

XI. By their acts and conduct described above in paragraph VIII, and the subparagraphs thereto, ITU and Local 38, have caused and attempted to cause Haverhill to discriminate against employees and applicants and prospective applicants for employment in regard to hire or tenure or terms or conditions of employment, and to delegate to ITU and Local 38, control over the seniority of its employees and applicants for employment, thereby discouraging and/or encouraging membership in a labor organization, in violation of Section 8 (a) (3) of the Act, and thereby ITU and Local 38, and each of them, did engage in, and are engaging in, unfair labor practices within the meaning of Section 8 (b) (2) of the Act.

XII. By their acts and conduct described above in paragraph VIII, and the subparagraphs thereto, ITU and Local 38, and each of them, did restrain and coerce, and are restraining and coercing, employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and are engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

XIII. By their acts and conduct described above in paragraph IX, and the subparagraphs thereto, ITU and Local 38

failed and refused to bargain with Haverhill in violation of Section 8 (b) (3) of the Act.

XIV. The activities of ITU and Local 38 described above in paragraphs VIII through XIII, and the subparagraphs thereto, occurring in connection with operations of Haverhill described above in paragraphs II, III and IV, have a close, intimate and substantial relation to trade, traffic and commerce among the several states, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce, and constitute unfair labor practices affecting commerce within the meaning of Sections 8 (b) (1) (A), (2) and (3), and Sections 2 (6) and (7) of the Act.

WHEREOF, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the First Region, on this 6th day of February, 1958, hereby issues this Complaint against International Typographical Union, AFL-CIO, and International Typographical Union, AFL-CIO, Local 38, respondents herein.

S/ BERNARD L. ALPERT

Regional Director
National Labor Relations Board
24 School Street
Boston 8, Massachusetts

#### COMPLAINT Case No. 1-CB-430

It having been charged by Worcester Telegram Publishing Company, Inc., 20 Franklin Street, Worcester, Massachusetts (herein called Worcester), that ITU, the members of its executive Council, International Typographical Union Local 165, 19 Pureka Terrace, Worcester, Massachusetts (herein called Local 165), and its Scale Committee (hereinafter with Local 165 collectively referred to as Local 165), have engaged in and are now engaging in unfair labor practices affecting commerce as set forth and defined in the

National Labor Relations Act, as amended, 61 Stat. 136 (herein referred to as the Act), the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the First Region, designated by the Board's Rules and Regulations—Series 6, as amended, Section 102.15, hereby issues this consolidated complaint and alleges as follows:

I. A copy of the Charge was served by registered mail upon ITU, the members of its Executive Council, Local 165,

and its Scale Committee, on December 2, 1957.

II. At all times material herein, Worcester has been and is engaged in the business of publishing a daily newspaper called the Worcester Telegram Publishing Company, Inc., maintaining its principle office, publishing plant, warehouses and other facilities in the city of Worcester, Massachusetts.

III. During the past year, Worcester, in the course and conduct of its publishing operations, held membership in, or subscribed to, various interstate news services, including United Press Association and Associated Press, advertised various nationally sold products, including automobiles and appliances, and had gross revenues from said publishing operations in excess of \$500,000.

IV. At all times material herein, Worcester has been and is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act

V. At all times material herein, ITU and Local 165 have been and are labor organizations within the meaning of Section 2 (5) of the Act.

VI. At all times material herein, the Executive Council of ITU, consisting of Woodruff Randolph, Charles M. Lyon, Harold H. Clark, Joe Bailey, and Don Hurd, and their successors, has been and is an agent of ITU within the meaning of the Act, and the Scale Committee has been and is an agent of Local 165, within the meaning of the Act.

VII. At all times material herein Local 165 has been a constituent local union of ITU existing under and by virtue of the constitution, bylaws and General Laws of ITU; and, at all times material herein the various constituent unions of ITU, including Local 165, have conducted their bargaining negotiations with employers, including Worcester, pursuant to and in accordance with the constitution, bylaws and general laws of ITU, and pursuant to and under the direction of ITU and its Executive Council (herein collectively referred to as ITU), and for the purpose, among others, of effectuating ITU's national collective bargaining policy.

VIII. At all times material herein, Local 165 and ITU were the representatives for the purposes of collective bargaining of a majority of the employees of Worcester in a unit appropriate for collective bargaining defined as including all composing room work and classifications such as hand compositors, typesetting, machine operators, makeup men, bank men, proofpress operators, proof readers, machinests for typesetting machines, operators and machinists on all material devices which cast or compose type or slugs or film.

IX. Since on or about June 2, 1957, Local 165 and ITU caused and attempted to cause, and continues to cause and attempt to cause, Worcester to discriminate against its employees or applicants or prospective applicants for employment in respect to the hire or tenure or terms or conditions of their employment, in violation of the Act. In support hereof, it is alleged as follows:

a. ITU and Local 165 have insisted, as a condition precedent to the execution of a collective bargaining contract, that Worcester agree, in substance, that the General Laws of ITU be incorporated into and made part of any collective bargaining contract executed by Local 165 and Worcester. b. ITU and Local 165 have insisted, as a condition precedent to the execution of a collective bargaining contract with Worcester, that said contract contain provisions, including provisions of the General Laws of ITU, which would require Worcester (i) to employ only members of Local 165 or ITU, (ii) to give preference to such members over persons not members of Local 165 or ITU, or of any constituent local thereof, in connection with hiring, increase or decrease in the work force, and employment of substitutes, and (iii) to delegate to Local 165 control over the seniority of composing room employees.

c. Among the provisions referred to above in subparagraph b, were provisions in respondents' proposed con-

tract providing, in substance, as follows:

1. Article I, Section 2: All composing room work shall be performed only by journeymen and apprentices.

2. Article I, Section 5: The hiring, operation, authority and control of the composing room shall be exercised exclusively through the foreman of the composing room, who shall be a member of the union, and, in his absence, the foreman-in-charge shall so function. All orders, instructions, reprimands, etc., must be given through the foreman who shall have the right to assign nien to any composing room work he deems necessary.

3. Article IV, Section 11: Persons considered capable substitutes by the foreman shall be deemed competent to fill regular situations. The substitute eldest in continuous service shall have prior right in the filling of the first vacancy.

4. Article 1, Section 8: The General Laws of the ITU shall govern relations between the parties on those subjects concerning which no provision is made in the contract.

5. Article I, Section 12: No employee shall be required to cross a pigket line established because of an authorized strike by any other ITU local union.

6. Article I, Section 9: The employer will not require the employees to process material received from or destined for a shop or plant in which an authorized strike by or lockout of an ITU local union is in progress.

7. Article III, Section 7: Apprentices shall be advised to subscribe for and complete the ITU Course of Lessons in Printing, beginning said course at the outset of their second

vear.

8. Article IV, Section 5: Employees may claim new shifts, starting times and slide days, and have choice of vacation schedule, in accordance with their priority standing.

In giving nights or days off, the foreman shall give preference to union members oldest in priority standing. Vacated days may be claimed by employees with superior priority. Notice shall be given to the union chapel chairman and posted on the chapel bulletin board.

 Article IV, Section 10: In employing substitutes for absent employees, the foreman shall observe strict priority

rights.

- 10. Article IV, Section 11: Persons considered capable substitutes by the foreman shall be deemed competent to fill regular situations, and shall be given preference in the filling of vacancies in the regular work force, and also extra work. The substitute eldest in continuous service shall have prior right in the filling of the first vacancy, and also extra work.
- 11. Article I, Section 5: Union members shall have the right to employ substitutes without consultation or approval by the foreman.
- 12. Article IV, Section 4: If a competent substitute is not ready, the foreman shall direct the union chapel chairman to put a competent substitute in his place.
- 13. Article IV, Section 10: Any union member may demand a written statement of the reason for his discharge.

d. Among the provisions in the General Laws of the ITU referred to in subparagraphs a and b above, were provisions providing, in substance, as follows:

1. Article III, Section 12: It is the unalterable policy of ITU that all composing room work, or any machinery or process appertaining to printing and the preparation therefor, belong to ITU, and all local unions of ITU are directed and required to reclaim jurisdiction and control over all such work being performed by persons who are not members of ITU or any ITU local union.

2. Article I, Section 4: Any person before entering the trade as an apprentice must first be approved by the ITU local union.

3. Article I, Section 5: No apprentice may leave the employ of one employer and enter the employ of another employer without the written consent of the president of the ITU local union.

4. Article I, Section 7: At the end of the first year, if an apprentice proves competent and the foreman and apprentice committee recommend him for membership he must be admitted to the union as an apprentice member.

5. Article I, Section 11: Beginning with the second year, apprentices must be in possession of an apprentice working card issued by the union.

6. Article I, Section 19: At least two members of the local union must be regularly employed as journeymen before the employer can engage an apprentice.

7. Article V, Section 11: All foremen and journeymen employees must be active members in good standing of the union.

8. Article VII, Section 1: Only members of ITU shall be permitted to operate the various composing room machines and devices used to process the products thereof.

9. Article VII, Section 5, Article VIII: Only members in good standing of ITU may be employed in installing, oper-

ating, maintaining, servicing and repairing the various machines and other mechanical devices used in composing, imposing, processing and casting of typing, type matter, slugs and other material of any kind, whether operated mechanically or automatically and wherever located.

10. Article VII, Section 6: Only members in good standing of ITU or the constituent local thereof may be employed upon all work necessary to processing the product of photo type setting machines.

11. Article VII, Section 7: Only members of ITU may be employed to perform duties in the paste makeup operation

using reproduction proofs.

12. Article V, Section 9; Article X: A member may select a substitute in his absence from work and such substitute shall be a member of the union and selected in accordance with the priority standing system of members established and maintained by the ITU local union and posted in its chapel.

13. Article X: In filling vacancies created by the absence of an employee for more than 30 calendar days only a member of ITU or the constituent local may be employed and such employee shall be selected in accordance with the

priority system established by the local.

14. Article V. Section 1: Article X: Any foreman filling a vacancy must give priority to the substitute listed on the priority list established by the local as oldest in continuous service, and the foreman shall be governed by provisions of the ITU General Laws.

15. Article V: In decreasing or increasing the work force the foreman shall be governed by the ITU General Laws and increase or decrease the force in accordance with the priorcity system established and maintained by the local union.

16. Article V, Section 8: Discharged members of the ITU shall have the right of appeal in accordance with the

ITU laws and the right to challenge the fairness of any rule of the employer which caused the discharge.

IX. On or about and since June 2, 1957, ITU and Local 165 have failed and refused to bargain in good faith with Worcester. In support hereof, it is alleged as follows:

a. ITU and Local 165 adamantly insisted, and insist, as a condition precedent to a contract, that Worcester agree to the provisions hereinabove described in paragraph VIII, and its subparagraphs, and other provisions of the General Laws, which would require Worcester to discriminate against employees, and applicants and respective applicants for employment, in violation of Section 8 (a) (3) of the Act.

b. ITU and Local 165 adamantly insisted, and insist, as a condition precedent to a contract, that Worcester agree to incorporate in, and make part of, a contract the ITU General Laws and refused to bargain with respect to the provisions thereof, although requested to do so by Worcester.

c. ITU and Local 165 adamantly insisted, and insist, as a condition precedent to the execution of a collective bargaining contract with Worcester for the employees in the appropriate unit referred to above in paragraph VII (1), that Worcester also bargain with respect to the hire, tenure, and terms and conditions of employment of supervisors; (2) that Worcester also bargain with respect to the hire, tenure, and terms and conditions of employment of persons and employees not included within the appropriate unit and/or classifications not in existence and not included within said appropriate unit.

d. ITU and Local 165 adamantly insisted, and insist, as a condition precedent to the execution of a contract, that Worcester agree to provisions (1) permitting employees to select their substitutes, and (2) that said employers select only union members as foremen of the composing room, and

thereby ITU and Local 165, insisted, and insist, that Worcester relinquish to ITU and Local 165, and their members, the management prerogatives of hiring employees and designating supervisors.

e. ITU and Local 165 adamantly insisted a a co dition precedent to the execution of a contract, that Worcester select and designate only a union member as foreman of the composing room and Worcester's representative for the purpose of collective bargaining and adjusting grievances, and since November 29, 1957, ITU and Local 165 have engaged in, and induced, encouraged and instigated Worcester's employees to engage in a strike against Worcester with an object of forcing Worcester to agree to said demand, thereby restraining and coercing Worcester in the election of its representative for purposes of collective bargaining or the adjustment of grievances, in violation of Section 8 (b) (1) (B) of the Act.

condition precedent to the execution of a contract, that Worcester agree to contract provisions providing, in substance and effect, that said labor organizations have the right to engage in, and to induce or encourage Worcester's employees to engage in, a strike or concerted refusal in the course of their employment touse, manufacture, process, or otherwise handle or work on goods, articles, materials, or commodities or to perform services, with an object of forcing or requiring Wocester to cease using, handling or otherwise dealing in the products of another producer, processor, or manufacturer or to cease doing business with another person, such strike, or inducement or encouragement of Worcester's employees being violative of Section 8 (b) (4)

(A) of the Act.

X. Worcester refused to agree to the contract provisions described above in paragraphs VIII and IX, and the subparagraphs thereto, whereupon, on or about and since

November 29, 1957, ITU and Local 165 have engaged in, and directed, instigated and encouraged the employees of Worcester to engage in, a strike against Worcester with an object of forcing and requiring Worcester to agree to said contract provisions.

XI. By their acts and conduct described above in paragraph VIII, and the subparagraphs thereto, ITU and Local 165, have caused and attempted to cause Worcester to discriminate against employees and applicants and prospective applicants for employment in regard to hire or tenure or terms or conditions of employment, and to delegate to ITU and Local 165, control over the semiority of its employees and applicants for employment, thereby discouraging and/or encouraging membership in a labor organization, in violation of Section 8 (a) (3) of the Act, and thereby ITU and Local 165, and each of them, did engage in, and are engaging in, unfair labor practices within the meaning of Section 8 (b) (2) of the Act.

XII. By their acts and conduct described above in paragraph VIH, and the subparagraphs thereto, LTU and Local 165, and each of them, did restrain and coerce, and are restraining and coercing, employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and are engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

XIII. By their acts and conduct described above in paragraph IX, and the subparagraphs thereto, ITU and Local 165 failed and refused to bargain with Worcester in violation of Section 8 (b) (3) of the Act.

XIV. The activities of ITU and Local 165 described above in paragraphs VIII through XIII, and the subparagraphs thereto, occurring in connection with operations of Worcester described above in paragraph II, III and IV, have a close, intimate and substantial relation to trade, traffic and commerce among the several states, and tend to

lead to labor disputes burdening and obstructing commerce and the free flow of commerce, and constitute unfair labor practices affecting commerce within the meaning of Sections 8 (b) (1) (A), (2) and (3), and Sections 2 (6) and (7) of the

WHEREFORE, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the First Region, on this 6th day of February, 1958, hereby issues this Complaint against International Typographical Union, AFL-CIO; its Executive Council, namely Woodruff Randolph, Harold H. Clark, Joe Bailey, Don Hugl and Charles M. Lyon; International Typographical Union Local 165, AFL-CIO, and its Scale Committee:

S/ BERNARD L. ALPERT

Regional Director National Labor Relations Board 24 School Street Boston 8, Massachusetts

#### ANSWER OF RESPONDENT INTERNATIONAL TYPOGRAPHICAL UNION

. Case No. 1-CB-429

Comes now the International Typographical Union and for answer to the complaint herein filed states:

- 1. The allegations of Paragraphs 1, II, III, IV, and V are admitted.
- 2. The allegations of Paragraphs VI, VII, VIII, IX, X, XI, XII, XIII and XIV are denied

Further answering, defendant says that any labor dispute presently existing is the direct result and consequence of unfair labor practices engaged in by Haverhill, including discrimination against the members of Local Union No. 38 in violation of Section 8 (a) (3) of the Act, refusals to

bargain collectively in good faith in violation of Section 8
(a) (5) of the Act, and others.

Respectfully submitted,

S GERHARD VAN ARKEL

Attorney for International

Of Counsel:

Typographical Union, AFL-CIO.

Van Arkel and Kaiser

1701 K Street, N.W.

Washington 6, D. C.

#### ANSWER OF RESPONDENTS

### INTERNATIONAL TYPOGRAPHICAL UNION AND THE MEMBERS OF ITS EXECUTIVE

COUNCHA Case No. 1-CB 430

Come now the above-named defendants, and for answer

1. The allegations of Paragraphs I, II, III, IV, V, and VI are admitted.

2. The allegations of Paragraphs VII, VIII, IX, X, XI, XII, XIII, and XIV are denied.

Further answering, defendant says that any labor dispute presently existing is the direct result and consequence of unfair labor practices engaged in by Worcester, including discrimination against the members of Local Union No. 165 in violation of Section 8 (a) (3) of the Act; refusals to bargain collectively in good faith in violation of Section 8 (a) (5) of the Act, and o hers.

Respectfully submitted,

S/GERHARD VAN ARKEL

Attorney for International Typographical Union and Members of its Executive Council.

Of Counsel:

Van Arkel and Kaiser 1701 K Street, N.W. Washington 6, D. C.

## ANSWER OF RESPONDENT INTERNATIONAL TYPOGRAPHICAL UNION; LOCAL 38

Case No: 1-CB-429

Comes now the International Typographical Union; Local 38 and for answer to the complaint herein filed states:

- 1. The allegations of Paragraphs I, II, III, IV and V are admitted.
- 2. The allegations of Paragraphs VI, VII, VIII, IX, X, XI, XII, XIII and XIV are denied.

Further answering, defendant says that any labor dispute presently existing is the direct result and consequence of unfair labor practices engaged in by Haverhill, including discrimination against the members of Local Union No. 38 in violation of Section 8 (a) (3) of the Act; refusals to bargain cohectively in good faith in violation of Section 8 (a) (5) of the Act, and others.

Respectfully Submitte 3
s/Robert M. Sega

Attorney for International Typographical Union Local 38, AFL-CIO

Of Cousel: Segal & Flamm 11 Beacon Street. Boston, Mass.

#### ANSWER OF RESPONDENTS INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 165 AND ITS SCALE COMMITTEE

Case No. 1-CB-430

Come now the above-named defendants, and for answer to the complaint herein filed state:

 The allegations of Paragraphs I, II, III, IV, V, and VI are admitted. 2. The allegations of Paragraphs VII, VIII, IX, X, XI, XIII, XIII, and XIV are denied.

Further answering, defendants say that any labor dispute present! existing is the direct result and consequence of unfair labor practices engaged in by Worcester, including discrimination against the members of Local Union No. 165 in violation of Section 8 (a) (3) of the Act; refusals to bargain collectively in good faith in violation of Section 8 (a) (5) of the Act, and others.

Respectfully Submitted,

s/Robert M. Segal.
Attorney for International
Typographical Union Local 165
And Its Scale Committee

Of Consel: Segal & Flamm 11 Beacon Street Boston, Mass.

### STENOGRAPHIC RECORD OF PROCEEDINGS [CA<sub>4</sub>No. 58-203 A]

#### March 5, 1958

[2] Mr. Serot: Because the last contract expired in 1947, and 1947 is prior to the Statute of Limitations which applies to us. So I am eliminating all reference to the in our petition.

I move to amend and strike subparagraph 5, which appears on Page 7, because, as your Honor knows, they have withdrawn that demand since the bargaining, since the strike began. (3) John Wesley Russ, Suorn Direct Examination by Mr. Scrot

Q. Will you please state your full name? A. John Wesley Russ.

Q. Where do you live? A. Sweethill Road, Plaistow, New Hampshire.

Q. Are you associated with the Haverhill Gazette Company! A. Yes.

[4] Q. In what capacity? A. As President and Treasurer.

Q. How long have you been associated with them in that capacity? A. Since February of 1955.

[11] Q. Will you tell the Court what you told the union was your objection to Section 8 of their proposal? A. Acceptance of this clause would automatically include other clauses, which were also objectionable.

[12] Q. What did you tell the union were the objectionable clauses? A. Article 1, Sections 5 and 6.

· Q. Article 1, Sections 5 and 6 of what? A. Of the proposed agreement.

Q. Mr. Russ, did you inform the union—please look at Section 8 of the contract—did you inform the union that the company objected to agreeing to Section 8 of the contract? A: Yes.

Q. Did you tell the union the reasons for the company's objection! A. Yes.

Q. Will you tell us what you told the union was the reason the company would not agree to Section 8 of the contract? [13] A. The company had no participation in the forming of the laws which they wished to govern us.

Q. What laws do you refer to? A. The General Laws of the union.

Q. You are referring to the provision relating to "The General Laws of the International Typographical Union, in effect January 1, 1956," I believe it reads. A. This one reads 1956. There may be some typographical error.

Q. [continuing] "not, in conflict with law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract." Is that what you are referring to when you say you objected to the inclusion of the General Laws? A. Yes.

Did the union, when the company objected, withdraw

that proposal! A. No.

O. Has the union ever withdrawn that proposal? No.

The Court: That is, you told us, the only objection you

made to Paragraph S or Section 8?

Mr. Serot: I'm sorry. I didn't hear.

The Court: I am asking the wifness whether he has told us all the reasons, or the only reason, whatever it may be, as to his expressed objection to Section 8.

The Witness: They can vote new laws which also would govern us in various clauses in which we have no

voice.

The Court: You told them that was an objection? The Witness: Yes, sir, your Honor.

[17] Q. Did the company have any employees operating those machines! A. Yes.

Q. Did the company have any classifications, and I am continuing to read from Section 5, of "operators of all phototypesetting machines (such as Fotosetter, Photon, Linofilm, Monophoto, Coxhead Liner, Filmotype, Typo, and Hadego) "? A., No.

[20] Q. Continuing with Section 5, did the company at

that time have "employees engaged in proofing, waxing and paste makeup with reproduction proofs"? A. No.

Q. Did it have any such classifications for employees? A. No.

Q. Did the company have any employees engaged in "processing the product of phototypesetting machines, including development and waxing"? A. No.

Q. Did it have any such classification of employees A.

Q. Did the company have employees engaged in "paste makeup of all type, hand lettered, illustrative, border and decorative material constituting a part of copy"? [21]

Q. Did it have any such classifications! A. No.

Q. Did the company object to Section 5 of the union's contract proposal? Did it make any objection to the union during the negotiations? A. Yes.

Q. Will you tell us what objection was conveyed to the union! A. We objected to including in the contract machines and [22] processes and work of which we had little, if any, knowledge, and didn't intend to introduce in the near future.

Q. Did the company make any statement with respect to bargaining in the event such processes were introduced?

Q:\Did the company object to Section 5 of the union's in that connection? A. It would always be willing to discuss with them any new machinery or equipment.

The Cenrt: That you would be willing to discuss the introduction of new equipment?

The Witness: Yes.

Q. When you said you told the union you would always discuss with them the introduction of new machines, were you referring to the actual introduction of the machines or to the manning of the machines?

Mr. Segal: Objection. I think we have gone along with this leading of the witness. I would rather at this [23] stage—

The Court: I don't think you are being burt any.

Mr. Segal: That may be, your Honor.

Q. Mr. Russ, in the negotiations in which you participated—who else participated with you as a representative of the company? A. William Heath.

Q. Did you do most of the negotiating or did Mr. Heath do it? A. I would say he did most of the talking.

Mr. Serot: I have no further questions of Mr. Russ.

#### Cross-examination by Mr. Segal

XQ. Mr. Ru bave you been in the composing room yourself in 1957? A. Yes.

XQ. Can you tell us what is ruling that is referred to in Article 5? A. I don't believe I understand the question.

XQ. The question is, you said you weren't doing ruling. I wonder if you can explain to the Judge and myself what ruling is that you weren't doing, if you know! A. I don't think I can.

XQ. You mentioned that there was a series of collective bargaining meetings between the union and the company in 1957, is that right, Mr. Russ! [24] A. Yes.

XQ. As a matter of fact, it actually started in December of 1956, didn't it, this series of meetings relative to this proposal! A. Yes.

XQ. So there was one in December of 1956? Do you recall that one? A. Yes, XQ. And a proposal was given to the company at that time by the union representatives? A. Yes.

XQ. The proposal was the same as the one you have in your hand, or different, that has been marked as Exhibit 1! A. There were differences.

XQ. Do you recall the differences? A. The wages were different.

XQ. The wages were different. The period of time deferent? The term of the agreement, in other works. I believe so.

XQ. In other words, there was a difference in wages, a difference in the term, you believe, and maybe other differences, do you recall? A. I can't recall them without comparing them.

XQ. At that meeting the union came to you people, and when I say "you" I mean management, and asked you to negotiate a [25] contract, is that correct? A. Yes.

XQ. The union presented proposals which you say are basically the same as the ones you have in your hand now with one or two exceptions, is that correct? A. Without making a detailed comparison I would say they are substantially the same.

XQ. As a matter of fact, at that first meeting, which was in December of 1956, didn't you tell the union you wouldn't sign a contract that had changes in it? A. I don't recall that.

The Court: That did have changes?

Mr. Segal: That had changes in it compared to something they had in existence in 1957.

XQ. Do you recall that? A. I don't recall that.

XQ. When that meeting broke up you had another meeting several days later or sometime in 1957, do you recall?

A. Yes.

XQ. At the meeting in 1957 was there discussion of the

proposals that you have in front of you or similar proposals, do you recall? A. I believe so.

XQ. You told us the objections you had to the proposals in so far as there were discussions, is that correct, so far!

A. I believe so.

[26] XQ. You said, I think, that you objected to Article 1, Section 8, for the reasons you have already given, is that right! A. Yes.

XQ. Section 5! A. Yes.

XQ. You objected to 6, did you? A. Yes.

XQ. Those were the three areas you objected to at that meeting and subsequent meetings, is that correct? A. Yes.

XQ. You had a series of subsequent meetings, I think you have agreed, is that correct? A. Yes.

XQ. Did you agree with the union to give them the \$105 that is in Article 4, Section 4,—the \$109.55? A. That particular price was not inferjected until November of 1957.

XQ. All right. Let's go back a little. Prior to that it was proposed to give, the union's proposal called for how much? A. \$97.

XQ. Did you agree to give them \$97? A. No.

XQ. While we are on that same Article 4, did you agree to give them, let's say, Section 8, Blue Cross-Blue Shield, benefits! [27] A. They were never discussed.

XQ. The company didn't agree to give it to them, didthey, if they were not discussed? You hadn't agreed to give it? A. There was no discussion.

XQ. Did you agree to give them number 10 in the same section on Severance Pay? A. There was no discussion.

XQ. Number 11, did you agree to give them the Pension Plan! A. There was no discussion.

XQ. Did you agree to give them increased vacations that they were proposing? A. There was no agreement.

XQ. There was no agreement. By that you mean you did not say Yes to that particular proposal, is that right? A. Yes.

XQ. When I say you, I mean that management did not say Yes. Is that right? A. We didn't agree.

XQ. You didn't agree. Did you agree to the Overtime provision the union asked for in its proposal? A. There was no discussion.

XQ. Did you agree to the Sick Leave proposal in subsection (k) of Section 10 of Article 2! A. There was no discussion.

XQ. Did you agree to the Holiday provisions the union had [28] proposed? A. There was no discussion.

XQ. When you say there was no discussion, do you mean to tell us the company had agreed itself to give them all this! A. In any of the meetings the discussions were hinging on other parts of the contract, and we never did get to discussing these because of the element of time.

The Court's What tes are you including in your answer, Mr. Russ?

The Witness: I am including all the meetings.

The Court: This is through November?

The Witness: Through November. The bulk of the discussion was on subjects other than what he has mentioned.

NQ-1 mentioned vacations. You told us there was no discussion of vacations.

The Court: Excuse me. He said there was no agreement on vacations. That is the one exception he made, either consciously or unconsciously.

XQ. Let me take these up. Rolidays. You mentioned there was no discussion of that, and correct? A. No discussion of holidays as such.

XQ. Was there a discussion of vacations? A. Yes.

NQ. Did the company agree with the union's proposal on vacations? A. No.

[29] XQ. As a matter of fact, didn't the company want to take away Slide Days! A. Not take away.

XQ. Was there a practice of slide days at the company in 1957! A. Yes.

XQ. Will you tell us what a slide day is, what the practice was! A. We observed ten legal holidays. Every man is paid for the holiday, Slide Day. If a man's regular day off falls on the holiday, he was given an additional day off with pay, or if he worked he was paid at premium rates.

XQ. That was the practice in 1957? A. Yes.

XQ. The union proposal on that was what, Mr. Russ, do you recall? A. On the slide day?

XQ. Yes. A. To continue it.

XQ. The company wanted to do what with the slide day?

[30] A. To bargain.

XQ. You mean they wanted to bargain about the slide day! A. No. They would give an additional week's vacation with pay in exchange for the slide day.

[31] XQ. You made known to the union the company's proposal on slide days and vacations? A. Yes.

XQ. Was there any agreement on that from the union?

XQ. Except for those areas you have already told us about, and this new area that has now been introduced; there was no discussion of the other issues I have mentioned earlier, is that correct? A. We never got to the discussion of those issues.

XQ. You never discussed the rest of the contract, in other words, the contract proposals, is that correct? A. Yes.

The Court: Let me see if I have this correct. The discussions, with the exception of this small item relatively

speaking of Slide Days, an extra week for vacation, the only [32] thing that was discussed was Article 1, Sections 5, 6, and 8?

XQ. Is that right, Mr. Russ? A. Yes.

XQ. In all these discussions that started in December of 1956 and went to the time the union went on strike in November of 1957, did the company ever make a written proposal to the union? A. No.

XQ. During these negotiations did the company in January of 1957 and again in July of 1957 unilaterally change the wage rates?

XQ. In January of 1957, after negotiations had started in December of 1956, did the company in January of 1957 change the wage rates at the plant? A. Yes.

XQ. With regard to the composing room employees? A. With regard to all employees.

XQ. Again in July of 1957 did the company again change the wage rates? A. Yes.

XQ. This was done by changing the wage payments in the week in which the change was made, is that correct? A. Yes.

NQ. You didn't send any notice to the union on this change in [33] January of 1957, did you? A. No written notice.

XQ. No written notice in July of 1957 also, is that correct? A. Yes.

XQ. Was there oral notice to the union or union representatives in January of 1957? A. I don't recall.

XQ. In July of 1957 was there any oral notice to the union? A. I don't recall:

XQ. To the best of your knowledge there was no notice to the union, is that correct? A. There is a possibility they could have been told.

- XQ. You don't know of any notice? A. I don't know of any notice, no.
- XQ. Mr. Russ, during the negotiations did the union raise the question of wages in November of 1957? A. In November?
- XQ Yes. Did the company tell—what did the company tell the union about wages, when the union raised it during its negotiations? A. The union raised the wage question at the conclusion of the meeting, and there was no further discussion because they left.
  - [35] XQ. During the negotiations subsequent to May of 1957 did the union raise the question of wages? A. Yes.
- XQ. Did the company tell the union that it could not discuss wages at this time! A. No.
- XQ. What did the company tell the union at that meeting? A. We always told them we were very willing to discuss wages, [36] hours and working conditions.
- XQ. Discuss wages. Did you discuss wages after you made that statement? A. The discussions had hinged on other subjects, and little time was left to discuss wages in these meetings.
- XQ. Is it fair to say the company did not discuss wages at these meetings? A. Other than mention it?
- XQ. Yes. A. There was mention of it; no gross discussion.
  - XQ. What did the company say on wages, if you know?

### [37] Cross-examination by Mr. Van Arkel

[38] XQ. I believe when Mr. Serot was examining you, you stated that your objection as expressed to the union to Article I, Section 8, dealing with the General Laws, was that this was another way of getting into the contract the

provisions of Article 1, Section 5, dealing with Jurisdiction, and Article 1, Section 6, dealing with Foreman, of the contract. A. That is a correct impression, yes.

XQ. That is to say certain of the General Laws were defined, Jurisdiction is defined in Article 1, Section 5, is that correct? A. That is my impression:

XQ. Certain of the laws would have contained the same requirements with respect to Foreman as are contained in Article 1, Section 6? A. That is my impression.

XQ. So is it a fair inference from your testimony that the company's objection, as expressed to the union, with respect to the General Laws clause, was merely a reiteration of the position they had taken with respect to Article 1, Section 5, [39] and Article 1, Section 6?

#### A. Yes.

XQ. I believe you also testified that one of the objections you expressed to the union to Article 1, Section 8, was that the union might change its laws during the life of the contract and you would have no voice in that, is that correct? A. Yes.

JAQ. Did the union point out that the contractual language stated, and I am reading from the agreement, "The General Laws of the International Typographical Union, in effect January 1, 1956"? A. There was no specific pointing out to my knowledge in these presentations as to specific dates.

XQ. I take it you had this language before you at that time, did you not? A. Yes.

XQ. Did you not read that language as meaning that only those laws of the union as they appeared on January 1, 1956, should be effective during the life of the contract? A. Will you repeat the question, please?

. XQ. Did you not read this language stating "The General Laws of the International Typographical Union, in

effect January 1, 1956" to mean that only the laws as they appeared on January 1, [40] 1956, would govern during the life of the contract? A. Yes.

XQ. So that if you expressed that objection to the union, there was no basis in fact for it, was there! A. No.

XQ. Prior to November 20, 1957, Mr. Russ, had the Foreman of your composing room been a member of the International Typographical Union? A. Yes.

XQ. For how many years, do you know? A. Not the exact number, but for several years.

XQ. A substantial number of years? A. Yes.

XQ. Had the company to your knowledge ever made any effort to replace the union foreman with a foreman who was not a member of the union? A. No.

XQ. Did the company have any objection to the foreman being a member of the union? A. Not this foreman.

XQ. Not this foreman. Had it been the practice of the company in the past to select the foreman of its composing room from among those persons employed in its composing room? A. Yes.

XQ. Had those employed in the composing room been members of [41] the International Typographical Union?

A. Yes.

XQ. What had been the practice with respect to hire of new employees in the composing room? First let me ask you this: Did the foreman do the hiring? A. That was within the realm of the Mechanical Superintendent.

XQ. You are unfamiliar with those practices? A. I am familiar with some of them.

XQ. Would you, for instance, ever interview any applicants for employment in the composing room? A. No.

XQ: Do you know whether Mr. Heath did? A. I think he may have.

XQ. Do you know whether, or not the foreman made recommendations to Mr. Heath with respect to persons who were to be hired in the composing room? A. I think he may have.

XQ. Did the foreman have general supervisory powers with respect to the discharge of employees in the composing room? A. Yes.

## Redirect Examination by Mr. Serot

- [42] Q. When was the last negotiating session, with the union that you attended? When was it held? A. Late in October of 1957.
- Q. Did you attend any of the meetings in November! A. If the November meetings consisted solely of employees, yes. I could relate the last meeting as late in October.
- [43] · Q. October was the last negotiating meeting with the union that you attended? A. That I attended, yes.
- Q. Do you know whether there were negotiating meetings in November? A. 'Yes.
- Q. Who represented the company in those meetings! A. The Manager and Associate Manager of the New England Daily Newspaper Association.
- Q. At the last meeting you attended did the union vary its position at all with respect to its proposal, with respect to Sections 5, 6, and 8 of its proposal! A. No.

# Direct Examination by Mr. Serot

- Q. What is your name and address, please? A. Frank E. Phillips, 10 Dennison Road, Worcester, Mass.
- Q. What is your occupation, Mr. Phillips? A. Manager of the New England Daily Newspaper Association, Incorporated.
- [44] Q. Did you represent the Haverhill Gazette Company in any negotiations in 1957, any contract negotiations with the Respondents here? A. Yes.

Q. Did you attend any of the negotiating meetings in 1957? A. None prior to the one which I thought you were speaking of first.

Q. What is the first date in 1957 you attended a negotiating meeting on behalf of the Haverhill Gazette? A. November 20th.

Q. 1957! A. Right.

Q. Was the company represented by any other person besides you at that meeting? A. Mr. William B. Parry was with me, Associate Manager of the Association.

Q. Was there any other company representative present? A. No.

Q. Who represented the respondents at that meeting? A. First Vice-President Charles M. Lyon, and International Representative William Lamothe.

Q. Any other union representative present? A. No.

Q. You told us that Mr. Lyon was the First Vice-President. The First Vice-President of what? [45] A. The International Typographical Union.

Q. Mr. Lamothe is the International representative of the same union? A. That's right.

Q. Did you have with you a copy of the contract, the proposed contract which the union had submitted to the company, marked Petitioner's Exhibit 1? A. Yes.

Q. Did you discuss that proposal with the union representatives at that meeting? A. No. I was shut off from such discussion.

Q. You say you were, shut off? A. Yes.

Q. Will you tell the Court what you mean by being shut off? A. I offered Mr. Lyon, after telling him we would be glad to have a contract, offered to give him a full legal counter-proposal. Mr. Lyon in effect, or he said in effect—what I mean regard as legal and what he might regard as legal would disagree. I said, "Now at least we are in agreement." He said to me then, and all that he said, "You

needn't waste your time. I'm going to pull them out." He left the room, and did pull them out.

Q. Did pull whom out? A. The employees of the composing room.

[46]. Q. Was there any other discussion at that meeting at all with respect to a collective bargaining contract? A. No, sir.

[49] Cross-examination by Mr. Van Arkel

XQ. Had you known Mr. Lyon previously, Mr. Phillips?
A. For about thirty years.

XQ Had you been in previous negotiations with him in the newspaper industry? A. Many times.

XQ. Had you in these previous negotiations given Mr. Lyon your views on what might be legal in a contract and what would not be legal in a contract? A. We had exchanged views, yes.

XQ. Had Mr. Lyon in those earlier meetings explained to you what his idea was as to what might be lawful in a contract and [50] what might not be? A. Yes.

XQ. I take it from your description of this conversation there was a fairly wide disagreement between you and Mr. Lyon as to what was a lawful contract and what was not? A. He suggested that. I agreed with him.

XQ. Had there in fact been prior to this meeting a wide area of disagreement between you and Mr. Lyon as to what might be lawful in a contract and what might not be? A. I so considered it.

NQ. I take it, you understood Mr. Lyon felt the same way about it; that is, that he also considered there was a wide disparity between your views! A. I would think so.

XQ. Had you specifically in these previous discussions with Mr. Lyon mentioned to him what particular propor-

tion of International Typographical Union agreements you considered to be unlawful? 'A. Well, sir, I would like to answer it this way. It goes back so many years, I don't recollect which ones in toto that I have, we have disagreed on.

XQ. Had you told Mr. Lyon that in your view the laws clause, for example, was illegal? - [51] A: Yes.

XQ. Had you told him that you thought the Jurisdiction section in the International Typographical Union contract was illegal? A. I told him it was finacceptable, and that the striking for it would be illegal, in my opinion.

XQ. Had you told him that you thought the contract clauses dealing with Foreman were unlawful! A. Yes!

. XQ. You had? A. Yes

XQ. Had you suggested to him that the contract clauses which dealt with the employment of Journeymen and Apprentices were unlawful! A. I do not remember:

XQ. Had you suggested to him that the contract clauses dealing with Struck Work were illegal? X. I would say probably not. I doubt if I mentioned that.

XQ. Well, is any event, Mr. Phillips, would it be a fair inference that when you fold Mr. Lyon you would give him a lawful contract, Mr. Lyon would understand that to mean a contract not containing provisions which you have here mentioned that you felt were unlawful!

[52] A. Will you give me the gist of it again!

XQ. In the course of this conversation that you had with Mr. Lyon on November 20th when you told Mr. Lyon that you would give him a lawful contract, did you understand that Mr. Lyon would understand that to mean a contract not containing these provisions which you have said here were in your judgment unlawful?

XQ. As I understand the conversation, Mr. Lyon com-

mented that your understanding and his understanding of what would constitute a legal contract would be very different, is that correct? A. That's what he said good naturedly.

XQ. You, therefore, I take it, understood that remark of Mr. Lyon to mean Mr. Lyon was still standing on the agreement [53] which had been previously submitted?

X. I think it's fair to assume that I did, yes.

XQ. This for the reasons you have told as here was an agreement that you were unwilling to accept on behalf of the company, is not that correct? A. I think that was a fair assumption. I didn't mention the agreement at all.

# [55] WILLIAM H. HEATH, Sworn Direct Examination by Mr. Serot.

Q. Will you tell us your full name and address! A. AVilliam H. Heath, 91 Hazeltine Street, Bradford, Missachusetts.

Q. What is your occupation, Mr. Heath! A. Editor and Mechanical Superintendent of the Haverhill Gazette.

Q. How long have you been occupying that position? A. I have been Mechanical Superintendent for fifteen years and Editor for thirty years.

[57] Q. The contract under discussion prior to November 8, as well as the one you have before you, contained the same Section 5 of Article 1, did it not? A. I think it did precisely.

Q. Did the company take any position with respect to

that proposal! . A. If did.

Q. What did it tell the union was its position with respect to that proposal! A. The representatives of Management told the union it was opposed to granting jurisdiction to the union over processes which it did not have in use and did not contemplate using in the foreseeable future.

Q. Did the company maintain that position throughout the meetings in which you participated? A. It did.

Q. Did the union withdraw that proposal or offer to amend it? A. It did not.

Q. The last meeting you had with the union was on November 8? A. Yes.

[58]. Q. At the close of the meeting of November 8 had the union varied from its position with respect to Section 5 of Article I?

The Witness: They had not.

Q. Did the company in the negotiations in May and Octover and through November 8 take any position with pespect to Section 8 of Article 1 of the Union's proposal?

A. It did.

Q. Will you tell us what they told the union was the company's position? A. The company opposed the inclusion of Article 8 in an agreement.

Q. Did the company inform the union as to why it was opposing the inclusion of that article of that section? A. Yes.

Q. Will you tell us what the company informed the union were its reasons! A. Yes. The principal topic of discussion had been jurisdiction from the beginning to the end of the meetings. As we [59] understood the union laws, if you accepted the union laws you accepted jurisdiction. In other words, our feeling was Article 5 could be eliminated, Article 8—

Mr. Segal: I think the question was, your Honor, whatthey expressed to the union.

The Court: Please pay attention, Mr. Heath, to the question. Don't include other matters. The question was: What did the union say? You have been telling us wint you felt:

The Witness: I was asked what the company's position was.

- Q. What did the union tell the company! I mean, what the company tell the union was the reason for its objection! A. That's what I'm trying to tell you, sir.
- Q. Tell us what you told the union. A. That's just what I said.

The Court: You said what you felt.

The Witness: That's what he told the union.

The Court: If you told the union you felt something, all right. Please make it clear.

The Witness: In what way, your Honor, did I fail to make it clear? I'll endeavor to rectify it.

The Court: When you tell me you felt something, I don't know whether that means you secretly felt it or whether you said it to the union.

[60] The Witness: I said to the union, "It's the company's opinion that accepting the union laws is tantamount to accepting jurisdiction;" that we opposed the jurisdiction for three reasons in particular.

Q. Did you tell the union what the three reasons were? A. We did,

Q. Tell us what you told the union. A. In the first place, we told the union that in the opinion of management the assignment of personnel to machines and processes was the responsibility primarily of management and not of the union. Secondly, we told the union that in management's opinion agreeing now to employ ITU members at some future date to operate processes and machines not now in use by the Haverhill Gazette Company would expose the company to conflict with other unions that might have an even better claim to jurisdiction over those processes than the ITU.

Thirdly, we told them that these processes were revolutionary in nature, and that it would be foolhardy and imprudent for management now to say that such and such a union is going to supply operators of these processes, because when they came into being such a completely different situation might exist that that particular type of personnel would not be appropriate.

[61] The Witness: Well, my third reason is the development of my first reason, your Honor, that these are new processes, new methods, new techniques, in some instances revolutionary.

The Court: All right. That is a sufficient answer, if that

is what you mean.

• The Court: All of these reasons relate to objections to Section 5, which you say you raised again as objections to Section 8, because you thought it got you back to Section 5. Did you express any objection to Section 8 that was independent of Section 5?

The Witness: I had no occasion to, your Honor, because discussions between management and the union almost ex-

clusively hinged on the issue of jurisdiction.

The Court: All right.

Q. On November 8, which you said was the last meeting you attended, who was present representing the respondents? [62] A. I don't recall the identity of all the members of the union who were present, Mr. Serot. I remember Mr. Ragazio, the President of Local 38. I don't recall the identity of all the others.

Q. Was there a discussion with respect to the provisions of the contract proposals submitted by the union at that

meeting? A, At that-meeting? No.

• Q. Was there a discussion as to a continuation of the negotiations after the close of that meeting? That is, was there any discussion during the meeting as to whether or not the negotiations should be continued thereafter? A. Yes. The union spokesmar announced that the union proposed to transfer negotiations to the International level by call-

ing in their International representative, and they assumed that management in accordance with its policy would wish to call in the representatives of the New England Daily Newspaper Association to meet with the union's International representative.

Did you thereafter, after that meeting, take any action with respect to arranging to be represented at future meetings? A. While the union committee was still in my office I wrote a letter to Mr. Phillips explaining the latest development in the negotiations.

Q. Then at the following meetings do you know who represented the company at the meetings after November 8? [63] A. Mr. Phillips and Mr. Parry to the best of my knowledge.

Q. No other company representatives, so far as you know, appeared? A. That's right, none.

which there was discussion, I think you told us that most of the time was taken up with respect to jurisdiction, Section 5 and Section 8 of Article 1 of the union proposal, did the union tell you what their position was with respect to those two provisions? A. Yes.

Q. Tell us what they said. A. As I recall it, the union spokesman argued that it was in the interest of the company that they sign a closed shop agreement with the union for these new processes.

Q. Was there anything else they said that you can recall now! A. Welf, they amplified it. I don't recall the details.

#### [64] Cross-Examination by Mr. Segal

XQ. Mr. Heath, as I understand it, there wasn't any discussion of wages at any of these meetings you were present at? A. No specific discussion in the sense of dollars and cents taken up.

XQ. There was some reference to wages, was there?

XQ. As a matter of fact, you made reference to wages,

did you not? A. I might have.

- XQ. Well, do you recall making a statement to the effect on wages that the Haverhill Gazette Company wage policy has been simply this: To distribute among the employees: the largest possible share of company revenue consistent with prudent management. This is a company policy that is not subject to alteration through requests or demands or pressures from any group of employees. Do you recall that statement?
- [65] A. Mr. Segal, I have said that. I don't know whether I said it in the immediate negotiation or not. But I have said that.
- XQ. During these immediate negotiations you think you
   said something like that? A. I might have said that. I.
   don't recall.
  - XQ. That has been the company's position during these negotiations, has it not, as to wages? A. The widest possible distribution in terms of prudent management. I have said that time and time again.
  - XQ. Not subject to alteration through request or demand or pressure from any group of employees, is that right? A. That is an extra refrain I don't commonly use, but I have used it.

XQ. You used it during these negotiations? A. That I won't swear to, but I have used it.

XQ. And you have used it in the meetings with the people from the International Typographical Union Local 38? Did you not? A. I said I have used those words, but whether in these immediate negotiations I do not recall. I might have used it with the International Pressmen's Union, Mr. Segal, for all I know. We have a contract with them.

NQ. Mr. Heath, as I understand it, you objected to the payment of full premiums for Blue Cross Blue Shield during this negotiation, is that correct? [66] A. We have paid half or 60 per cent. That has been our policy. And we objected to changing it, yes.

XQ. And in terms of the Pension Proposal, you have a bonus plan, I believe, is that correct, profit-sharing? A.

We have a profit sharing trust.

XQ. You objected to the Pension Plan because of your profit-sharing plan? A. I don't recall any particular discussion, any discussion of Pension Plan with the Typographical Union. I discussed those with the Pressmen. I don't want to get mixed up with the Pressmen, because a discussion with the Pressmen and a discussion with the Typographers is quite different.

XQ. With regard to the negotiations with the Typographical Union in October and November, 1957, do you recall any mention of a Pension Plan? A. I do not.

XQ. They were in the proposals, were they not, Pension Plan proposals? I call your attention to Article 4. [67]

A. Section 11, Article 4.

XQ. You don't recall any conversation where you pointed out that the profit-sharing plan took care of that! A. I don't, no.

XQ. Do you recall discussions about vacations? A.

Yes, sir.

XQ. Can you tell us what you said about vacations? A. Yes, sir. We have a policy of three weeks vacation for employees of ten or more years standing. This doesn't apply—did not apply to the composing room employees, because only the composing room employees had the Slide Day, and the company did not think it would be equitable to apply the three weeks vacation to the composing room employees unless they gave up the Slide Day.

XQ. Management made that as a proposal orally during the negotiations, is that right? A. Well, we made that as a condition to the union's proposal for a three weeks vacation.

XQ. In other words, as a condition precedent to the union's proposals on vacations, the company asked that they give up Slide Days, is that right? A. The position of the company was it wouldn't grant both the three weeks and the Slide Day.

XQ. The company never varied from that position during the negotiations? [68] A. No.

XQ. As a matter of fact, the company didn't vary from its position on jurisdiction during the entire negotiations, did it? A. No.

XQ. It did not vary from its position on wages during the negotiations? A. There was no discussion of wages.

XQ. Blue Cross-Biue Shield, the company had the position you gave us a minute ago and it never varied during the entire negotiations? A. There was no particular discussion of it either.

XQ. There was no discussion? A. No special discussion. It was just brought up and passed off.

XQ. The company said No, did they? A It continued the same policy.

XQ. That was it's position through the negotiations, was it not? A. On the Blue Cross-Blue Shield, yes.

XQ. As a matter of fact, you gave no written proposals to the union at any time, is that correct? A. We offered one and we were scornfully rejected.

XQ: All right. Do you have a vopy of the written proposals you gave to the union during these negotiations! A. I offered none. We offered one several years ago; and, we were laughed at. We proposed to offer one again this year [69] and we were scornfully turned down.

XQ. So that do I understand correctly that in the nego-

tiations of 1957 the company made no written proposals to the union? Is that a fact? A. That is correct.

XQ. All right. Do I also understand that the only proposal the company made relative to, shall we say, economic issues, was the one about vacations and holidays, is that right, or Slide Days! A. Slide Days. That's the only economic issue that, was raised.

XQ. And the only proposal the company made. A. The only counterproposal.

XQ. Yes, that's what I mean. A That's right, yes.

XQ. There was some discussion in the negotiations about the Foreman issue, was there not? A. Yes, there was some discussion of it.

XQ. As a matter of fact, did the company make the statement that they had no problem with the practice of the Foreman being a member of the union in the past? A. The company objected to the clause.

The Court: To the clause?

The Witness: They objected, the company objected in principle to the provision that the Foreman must be or shall the [70] a member of the union. We never made it a decisive issue.

XQ. In fact you even told the union that issue was unimportant "because we have had good relations"? A. I told the union that; yes, I never would make that a decisive issue because I was satisfied with the foreman we had and had no intention of making any change.

XQ. So that the real difference, as far as you were concerned, in the negotiations were just the problems of what you cal! Jurisdiction, is that correct! A. That was the basic issue from beginning to end, Mr. Segal.

XQ. Section 5 of the proposal contract of Article I! A. And management's interpretation of Section 8's relation to it.

'XQ. Which you have already explained? A. Yes.

XQ. Excuse me. The question is: Those were the two-basic issues, were they, as far as management's opinion is concerned. [71] A. They were, that's right.

The Court: Was Section 8 any different from Section 5, or were your objections just the same, that they amounted to the same thing!

The Witness: As I tried to explain, your Honor, our interpretation of the union laws clause was that if we accepted the union laws we automatically accepted jurisdiction.

The Court: Well, it you accepted Section 5 you automatically accepted jurisdiction.

The Witness: Yes, that's right, sir.

The Court: What I am asking is: Did you feel or did you say that Section 8 went furt er than Section 5?

The Witness: Section 8 naturally goes farther than Section 5 because it embraces much more than the laws affecting jurisdiction.

The Court: Yes, but I am not talking about all of the things that Section 8 might mean.

The Witness: No. I wasn't.

The Court: I am asking you what you were talking about to the union.

The Witness; I was concerned-

The Court! Your concern to the union, if I understood it, was that Section 8 and Section 5 were two ways of expressing the same thing that you didn't want to take.

The Witness: Jarisdiction, that is right.

# [72] · Cross-examination by Mr. Van Arkel

XQ. Mr. Heath, you said that there had been discussion at the meeting of November 8, was it, with respect to Article 1, Section 5, at which you were present? A. On November 8 was that very brief meeting, Mr. Van Arkel, at which

negotiations were transferred from the Local to the International level. There was no discussion.

XQ: You stated, if I understood you correctly on direct examination, that the union in the course of these discussions argued that it was in the company's interest to sign a closed shop agreement for these new processes; is that correct! A. Why, sure. The jurisdiction is a closed shop.

[73], XQ. Let me ask you: Did I correctly quote the testimony you gave on direct examination. A. Yes.

XQ. Now at what meeting was it that the union representative made this statement! A. I don't recall the particular date because it was an argument that was repeatedly made by union spokesmen.

XQ. Who used the words "closed shop"? A. At the meetings?

XQ. Yes. A. Nobody that I know of.

XQ. Those words were not used? A. No, not to my knowledge.

XQ. So that what you are saying now is that the union argued that it was to the company's interest to recognize union jurisdiction over these new processes, is that correct?

A. That is correct.

XQ. Why did they say this was in the company's intergest! A: Well, I don't recall all the details, Mr. Van Arkel. Mr. Rigazio would remember that argument much better than I could. He delivered it quite eloquently.

XQ. I am pleased to hear that. But in order to refresh your recollection—first of all, did the union take the position that these processes described in Section 5 of Article 1, which you were not using, were substitutes for traditional [74]—composing room processes! A. Yes.

XQ. And was the union correct in that?

A. I don't know, Mr. Van Arkel, because some of these

processes are mysterious to me. I don't know what they even the names of some of the machines I never heard of before, and one of them I can't pronounce.

XQ. Wel. with respect to those that you do know about, Mr. Heath, were they or are they substitutes for traditional composing room work?

Mr. Serot: I make the same objection.

The Court: He may answer.

A. Yes. I think they are, Mr. Van Arkel. They bear the same relation to present processes as the linotype machine bore to the hand type, I assume, only more electronic.

XQ. In so far as you are unfamiliar with these processes described in Section 5 of Article 1, did you make any investigation to determine whether or not they were in fa t substitutes for traditional composing room methods? A. No.

XQ. Did the union represent that they were! A. Why, I think they argued that they were.

XQ: In short, the union told you that these were all substitutes [75] for traditional methods of composing room operations? A. New ways of doing old things.

XQ: New ways of doing the same thing? "A: That's right, or achieving the same result.

XQ. Yes. Did the union in the course of these negotiages tions take the position that if printing was to continue as a craft, or if the Printers' Union was to continue as a craft union it was necessary that they protect jurisdiction over such new and substitute processes! A. I don't recall it, but it sounds like a familiar statement.

XQ. Did they explain to you that these new processes which are substitutes for traditional processes could be better performed by printers than by others! A. That was their opinion.

XQ. Do you agree that that was a correct opinion? A. I couldn't agree to it, no.

XQ. Why not? A. Because there had been no demonstration of capacity to carry out these new processes. For instance, I don't know whether an engrayer or a printer or a stereotyper or a lithographer is better—is the best to accomplish these new pocesses.

Are you familiar with the Phototypesetting process? A. I know something about the theory. But I have never even [76]—seen one of the machines in operation.

XQ. Do you know whether or not the phototypesetter uses a linetype keyboard? A. I understand it does.

- XQ. Would it be your conclusion that a printer familiar with the operation of a linotype would be the most competent man to operate a phototype setter!
- A. I think I could put a Kellogg keyboard on it and a typist could do it.

XQ. I think we have already agreed it has a linotype keyboard. A. It has a linotype keyboard, yes.

XQ. And would you say that the union was unreasonable taking the view or position that printers could do this work better than others? A. I would think they were until they had demonstrated the ability to do a superior job.

XQ. Was there discussion about their being given an opportunity to do this work? A: Not this particular work, no, not phototypesetter.

XQ. Not phototypesetting ' A. No.

XQ. How about the other processes here described!  $\Lambda$ . Teletypesetter.

[77] XQ. Was there discussion about that? A. Yes, sir.

XO. Was there discussion about some person represented by Local 38 becoming proficient in that work! A. About some persons in Local 38 becoming proficient in that work.

XQ. Had they in fact und rtaken to do so? A. They had, at the invitation of the company, to prepare to qualify themselves to operate the teletypesetter.

XQ. So that, in so far as you have introduced substitute poeresses, the union members have shown a willingness to take the necessary training to become proficient in them? A. 1 would say the company had shown its willingness to use local printers to do that work.

XQ. And by the same token the Local Union had shown its readiness! A. Ves. We had a very happy relationship in discussing those plans.

XQ. So what it came down to is that you were unwilling to commit yourself for the future? A. That is correct.

XQ. And the union strenuously urged that it was important from your point of view and from their point of view that you do commit yourself for the future, did they? A. That's right. There is one point that you didn't make, [78] I think, Mr. Van Arkel, in the teletypesetter proposition. The company's proposal was contingent upon their demonstrating, proficiency, which is the same standard naturally.

XQ. I take it that the union was perfectly willing to accept that as a condition? A. They accepted that as a challenge and said that they were confident they could do it.

XQ. The argument therefore, as I get it in essence between you and the union came down to the fact that the union wished to have some guaranties for the life of the agreement with respect to any new or substitute processes which might be introduced and you were unwilling to give such guaranties, is that correct? A. We were unwilling to grant jurisdiction in the future.

XQ. In the course of these discussions on jurisdiction was there any discussion about the question whether or not the work specified in Section 5 of Article 1 was to be done by union men or non-union men at all? A. There was never

any mention of non-union men in the negotiations with the union, Mr. Van Arkel.

[79] XQ. In the course of these negotiations that you have described with the union was there any discussion at all about whether the work being done in the composing room until November 20, 1957, should be done by union men or by non-union men! A. I don't recall any, Mr. Van Arkel. I'm not sure I understand the question.

XQ. I am asking if this was a subject of conversation?

A. I don't recall it.

XQ. Was there a subject of conversation with respect to the work not yet installed but which was under discussion for the future, the question whether it should be done by union men or neu-union men, anything along those lines? A. I don't recall any discussion of the union or non-union character of present or future personnel.

XQ. To your knowledge were all of the persons employed in your composing room members of the International Typographical Union! A. Yes.

XQ. How long have you been Mechanical Superintendent? A. Fifteen years.

NQ. In that period of fifteen years have you ever had a qualified non-union journeyman make application for a job in your composing room! A I think that probably we have.

[80] XQ. You have had! A. Yes.

XQ. When was the last time? A. Well, I'm looking back a number of years, ten years or so ago when we published the New Hampshire Sunday News. I think that there probably were some printers from other cities, who were qualified journeymen, who applied for work, and who were admitted to Local 38. That is my recollection of what happened at the time. The members of Local 38 would remember that better than I.

XQ. And they went to work for the Haverhill Gazette then, did they? A. Yes. But they were members of Local 38 before they had been there.

XQ. Now outside of that episode involving the New Hampshire News, was it? A. The New Hampshire Sunday News.

XQ. Has any person to your knowledge claiming to be a competent journeyman printer applied to you for a job who was not a union member? A. I don't recall any, Mr. Van Arkel. Of course applications would be going—anybody looking for a job would go to the foreman. Although there may have been—if a man came into my office, a printer, applying for work, I would send him to the foreman.

'[81] XQ. Did you yourself make it a practice to interview applicants for employment in the composing room! A. No. In fact, we didn't have many applicants for employment in the composing room.

XQ. Was this a matter that was left largely in the discretion of the foreman? A. It was left largely in the foreman's hands.

XQ. Well, then I take it, Mr. Heath, in the course of these negotiations with the Union, is no understanding correct that the words "closed shop" were not used in any of the discussions you had? A. I don't remember saying them out loud, Mr. Van Arkel.

XQ. You what? A. I don't remember saying them out loud.

XQ. Was there some discussion of the Apprenticeship provision in the proposed agreement, Mr. Heath? A. I don't recall any.

XQ. You don't recall any at all! A: No.

XQ. It has been the tradition in this industry for the union to accept a large measure of responsibility for the training of apprentices, has it not? A Yes.

XQ. And did you have any objection to the way in which the apprenticeship program operated in your plant? A. No, none at all. We had an excellent program.

#### March 6, 1958

# [1] WILLIAM B. PARRY, SWOTH Direct Examination by Mr. Serot.

- Q. Will you state your full name and address, please?
- A. William B. Parry, 20 Johnson Avenue, Northboro, Massachusetts.
- Q. What is your occupation, Mr. Parry! A. I am associate manager of the New England Daily Newspaper Association.
- [2] Q. In that capacity do you on occasion engage in collective bargening negotiations on behalf of newspapers?

  A. I do.
- Q. Did you represent the Haverhill Gazette in collective bargaining negotiations with the respondents in this case? A. I did.
- Q. When did you first meet with the union in collective bargaining negotiations? A. On November 20th.
- Q. Of 1957? A. You mean in this instant case. On November 20th, 1957, with Frank E. Phillips, Manager of the New England Daily Newspaper Association.
- Q. Were you the only two company representatives at the meeting? A. We were the only two company representatives at the meeting.
- Q. Who represented the unions at that meeting? A. Mr. Charles M. Lyon, First Vice-President of the International Typographical Union; Mr. William Lamothe, International Representative of the International Typographical Union.
- Q. Any other union representative present? A. There was not.
- Q. Did you yourself participate in the discussion at that preeting? A. No, I did not participate in any discussions

at that meeting, other than some formalities, "Hello." I met Mr. Lyon for the [3] first time prior to that, but no discussions on the centract.

Q. Did Mr. Lamothe participate actively in the discus-

sions at that meeting? A. He did not either.

Q. In other words, the discussions were carried on between Mr. Phillips for the company and Mr. Lyon for the union? A. That's correct.

- Q: Will you tell us, please, what Mr. Phillips said and what Mr. Lyon said with respect to negotiating a collective bargaining contract? A. Well, after the formalities were dispensed with Mr. Lyon asked Mr. Phillips if he had a copy of the proposed contract which the International—the proposed contract which had been submitted by the union. Mr. Phillips said that he had. And Mr. Lyon asked him, I think, if he had read it. Mr. Phillips said, "Yes," and that there were a number of clauses in the contract which he considered were illegal, and he would like the opportunity to give the union a legal counterproposal.

  [4] Mr. Lyon stated to this effect, "What you might consider legal and what I might consider legal would be two different things." Mr. Phillips said, "I think, for once, Toby, we are in agreement." Mr. Lyon then said, "I am
  - Q. Was that the end of the ineeting that day? A. As far as our meeting with Mr. Lyon and Mr. Lamothe were concerned; yes.

going to pull the boys out," and said good day. He and Mr.

Lamothe left the room.

Q. Where did Mr. Lyon go, did you see, when he left the room? A. When Mr. Lyon and Mr. Lamothe left the room, I left with them. They proceeded to the composing room where Mr. Lyon called the boys over to the side of the room. They left their work. I did not hear the conversation, I only know Mr. Lyon was talking with them, and about a minute later they all piled out of the composing room.

- Q. Thereafter did you meet with the union representatives for purposes of collective bargaining negotiations?

  A. I did.
- Q. When? A. On November 21st, approximately 5.45 p.m., at the request of the Federal and State mediators.
- Q. Was the company represented by any other person besides you? A. No, I represented the company.
- Q. Who represented the unions at that meeting? A. Mr. Charles M. Lyon, International Vice-President; Mr. Wil [5] liam Lamothe, President of the Local; Anthony Rigazio was there. Donald Boyd, and there were probably two or three other employees. I think one person by the name of Cahill. I can't recall the other two.
- Q. I show you what I believe has been marked Petitioner's Exhibit No. 1 and has been identified as a copy of the contract proposal submitted by the union. Was there any discussion at that meeting with respect to the various provisions of that proposed contract? A. Yes. The Federal mediator, David Hillyer, and State mediator, William Dorrity, asked us, in view of the fact that there had been no discussion of all the various contract language the previous day, to go over this proposed agreement of the Typographical Union, section by section, and we proceeded to do so.
- Q. Did you, at that time, have with you a copy of that contract? A. Yes.
- Q. Did you make any notes on that copy? A. Very minor notes. Various sections, and I wrote in some language where we agreed to changes and I made some corrections where Mr. Lyon called my attention to various errors.
- With respect to Section 5 of Article 1 of the union's proposed contract, can you tell us what you said and what the union representative said as to the possibility of agreement or as to the status of negotiations at that time? [6] A. Well, when we got to Section 5.4 told the Federal and

State mediators and union that the company objected to the jurisdiction language. I explained that they were willing to recognize the language up to that point, which starts with these various new processes, but the company was completely unfamiliar with and had no idea or no plans whatsoever of introducing. Mr. Lyon did call to my attention that I knew some of these processes. I admitted I had seen Proton in operation and Fotosetter. I pointed out as an agent for the company I had no more knowledge than the company, for the purpose of negotiating this section.

We had a considerable discussion with regard to these various machines and with regard to other phases of this jurisdiction problem. I also pointed out, in claiming jurisdiction over all machines that cast—over all operators of perforating machines and recutting units for use of the composing room, that it would preclude the company using the present tape because the company at present uses tape that is perforated in Boston and is sent over leased wires of the United Press.

Q. You mean today or at that time? A. At the time the negotiations and the strike was going on they were using tape perforated in Boston by United Press, coming over the leased wires of United Press, and then being what you might call recut in the news room or off the news room of the paper. That they were also using tyro which is featured [7] tape or tape reproducing features that the company buys, which is actually cut in St. Petersburg, and under this jurisdiction language the union would prohibit the use of such tape if we accepted the language.

Mr. Lamothe told me that, well, to a certain extent they could take care of that. They would give us a counterproposition on this tape which would allow us a choice of using a limited amount of this tape or—coming over the UP wires, such as they do in certain other places—or he would allow us to use—he would give us a clause which

would allow us to use all United Press tape which was not construed as features and for which no extra charges were paid.

I asked him about our continued use of Tapco. We had a contract on that. And he said that would be prohibited

absolutely.

Now, in this jurisdiction language, and we spent probably half to three-quarters of an-hour on it, I also pointed outthat it could quite possibly be, and might of my knowledge, that other unions were also claiming jurisdiction over some of the-some parts of the processes and we did have a photo engraving department; that while we had no contract with them, they certainly did stripping. In fairness to him, he pointed out what they were interested in was not losing any work for their members. I assured him that the Haverhill Gazette at no time planned to lay off any of their men based on these juris [8] dictions that might come in the future. They were ready to recognize the union as bargaining agent for composing room purposes, but the question in their mind and mine, in these new processes, what exactly were composing room processes and what weren't. The Federal and State mediators asked me to bring back to the next meeting some contract language which would guarantee that, and I agreed to do so,

Q. Was there any further discussion you can recall with respect to Section 5 of Article 1 at that meeting?. A.-1.

think that I have covered the gist of it.

Q. Was there any discussion at that meeting with respect to Section 6 of Article 1? A. Yes, there was.

Q. Can you tell us what you said and what the union representative said? A. I stated that the company objected to the inclusion of general laws of the Typographical Union in the contract. I beg your pardon. First Mr. Lyon called to my attention there was an error; that the date 1956 should actually—meant January 1st, 1957. We were

talking about the 1957 general laws, not the 1956. I frankly am not quite sure if there were many changes in the laws, but I told him the company's position; that they would not include general laws as such in the contract; that not only were they going to try to get in the back door with these general laws on these various jurisdictions, but the [9] contract also included—I mean the general laws also included many closed shop provisions which in my opinion were illegal and which we objected to.

[10] Now I don't know if it was my suggestion or if it was the Federal Mediator that moved in on this, but anyway as a result of that I offered, there were various conversations that I can't quite recall, I offered, I agreed there were many of the laws we had no objection to; and I offered to negotiate each law individually as a part of the contract, and in that manaer we could take up each law; as we were taking up each of the contract clauses we could take up each of the laws and definitely state our objections, or whether we agreed to them. My suggestion was that they be then incorporated into the contract.

Mr. Lamothe said—I beg your pardon, Mr. Lyon stated that the laws of the International Typographical Union were not negotiable, and he would not take them up individually.

Now with respect to these laws, there was further discussion on them. And one of the points, Mr. Lamothe—I mean Mr. Lyon, had made was that there was a saving clause in the General Laws. I disagreed that the saving clause would be of much value in view of the fact that the laws prohibited—the contract language in Article 10—Arbitration" prohibited the arbitration of the General Laws of the International Typographical Union, so that left up—

The Court: I am confused. You said the laws prohibited arbitration!

The Witness: Both the contract language here prohibited [11] arbitration, and actually the General Laws of the International Typographical Union prohibited arbitration of their laws. Therefore, the only recourse you had, if you decided that one of the laws was illegal and you didn't want to follow it, was to go to the Executive Board of the International Typographical Union for their decision as to whether or not in their opinion the laws were legal or illegal.

Q: Was anything else said with respect to Section 8 of Article 1 at that meeting? A. Well, Mr. Lyon agreed with me that the International Typographical Union laws were not arbitrable.

12] The Witness: When I mentioned the closed shop provisions in the International Typographical Union General Laws, I think that is when he called this to my attention. Now by inference he did agree that there might be certain articles that were in conflict, and he pointed out there was a saving clause. That is when we had the discussion as to how we could get that—and that there would be no way other than going to the Executive Board of the International Typographical Union, which in my opinion might be biased as to whether there was a conflict or whether any of their laws were in violation of the law.

The Court: In other words, he didn't concede that any [13] of them were. He said that it was arguable and that that party would be the one that would determine it?

The. Witness: Yes.

The Court: That you would have no say about it?

The Witness: By general law. The Court: By general law!

The Witness: By both the general contract and the General Laws.

The Court: So that it would be impossible to define in advance to what extent the General Laws were not going to be incorporated into this contract because of this, what I might call, the savings clause?

The Witness: That is correct.

[14] Q. Was there any discussion at that meeting with respect to Article 2, Section 11?)

A. I objected to the section and I objected to the section on the basis that it was quite possible the company could be made liable if any of their employees acted as an agent of the company in employing people to take their place discriminated between union and non-union men. They pointed out 'there was very litle of this employment of substitutes; there weren't too many available, as I recall. But I said that nevertheless the contract which we contemplated would be in effect for at least a year and might go over a period of time when more substitutes were available, more people were looking for jobs, and as agents of the employer I thought we were, the company was going too far. It was the company's position that they were the employer of the employees.

Q. Was anything further said either by you or by the Union? [15] A. Mr. Lyon did state that "That's in all the contracts. Convenience." That all the contracts, all the approved contracts had it. Always wanted an approved contract. And that would have to be in there. I agreed that in a number of places I guessed it was in there, where they did have approved contracts. I wasn't arguing about that. But it was the employer's position here that he was the employer and that he didn't want his employees to act as his agents.

The Court: When you say they were "approved contracts," approved by whom!

The Witness: By the International Typographical Union. I might add that there might have been some efference to the General Laws with regard to that, as to the ct that a good union man would normally be expected, and I think by law required, to pick another union man as his substitute.

Q. What do you mean by "law," federal law? A. By

the International Typographical Union law:

Q. Did the union make any reply or comment? A. Other than the fact that that language had to be in the contract to become an approved contract which, as Mr. Lyon said a number of times, "That's what the boys want."

Q. Did you inform the union at either of those two meetings the company was willing to continue to recognize the union as a representative of the employees for whom it had always—for whom it had been recognizing them as the bargaining agent? [16] A: What two meetings are you referring to? The meetings on the 20th and the 21st? There was another meeting on the 23rd.

Q. At the meeting of the 21st. A. Yes, that we were

willing to recognize them as the bargaining agent.

Q. Yes. A. I did. And the State or Federal Mediator asked me to bring in language which we thought might be able to clear up this matter of jurisdiction; the fact the boys were worried about losing or having somebody else do composing room work, or I should put it, or losing the right to bargain over composing room work.

Q. The next meeting was held when? A. The next meeting was held on Saturday, November 23rd, about 10

o'clock.

Q. Who appeared as representative of the company?
 A. I appeared as the representative of the company.

Q. Who represented the union? A. There was Mr. Lyon, Mr. Lamothe, Mr. Rigazio, Mr. Boyd, a fellow by the name of Cahill.

[17] Q. With respect to Section 5, Article 1, did you at that meeting submit the language you had promised the Mediator at the previous meeting to submit? A. I did.

Q. What was the proposal you made? A. I noted it at the bottom here. "The Publisher recognizes the Union as exclusive bargaining agent for all employees of the Publisher engaged in composing room work and any dispute that arises as to what constitutes composing room work shall be subject to arbitration as provided for in this contract."

Q. Did you submit or make that proposal to the union

at that meeting? A. On Saturday morning.

Q. November 23rd? A. November 23rd.

Q. Did the union accept or reject that proposal? A. Well, first there was discussion of it with regard to the arbitration language, with the exception of the last paragraph in Section 10 of Article 1, which we had accepted the previous night. At that time Mr. Lyon went through that, he noted there was no tie breaker, that is for the selection of the fifth [18] member, the odd man on the Board of Arbitration, and that it could be quite conceivable there could be a two and two vote that could tie up any decision, and we both agreed it would be better to select some form of tie breaker, such as a judge. I think I suggested the Chief Justice of the Supreme Judicial Court or a judge of one of the District Courts. So we agreed we would have to do something about that. And then Mr. Lyon, after discussing it, I mean in that manner, stated that he had to have the jurisdictional language that they had proposed, that first paragraph, the jurisdictional language that they had proposed.

[19] I asked him if he had to have it, how much comma,

semicolon and period, and he said, yes.

Q. Was there any further discussion with respect to Section 5 of Article 1 or your counterproposal at that meeting! A. No, that threw it out. There was no further discussion of it in that manner.

Q. Was there any discussion at that meeting as to Section 8 of Article 1 of the union proposal? A. No.

Q. No further discussion? A. No, we had gone through the entire contract on Thursday night and we ended up about 10 o'clock. After bringing in this language we did have a general discussion as to what the issues were. We tried to put them together as to what was the basis of the strike, why the strike started and why it was continuing. The Federal mediators wanted us to see if we could get down to certain issues. Do you want me to go on?

Q. Yes, Did you get down to those issues! A. Yes, We outlined the following issues as to the basis on which the strike took place and was continuing. First was the limitation of, restriction of the use of teletype tape. The second was jurisdiction over new processes. And third was refusal of the employer to agree that the foreman shall be a member of the union, and the fourth was refusal of the employer to accept the general laws of the International Typographical [20] Union.

Q. Whose issues to the mediators? Was it the union or was it the company? A. It was a joint effort. I wrote them down as we discussed them. I know the Federal mediators did. I imagine the local union boys or Mr. Lamothe or Mr. Lyon. But these were as they were, and we read them out. There was no objection offered by anybody

that these were not the basic issues.

Q. In connection with the issue as to the foreman being a member of the union, at either the meeting of the 22d or the meeting of the 23d, was there any discussion with respect to Section 6 of Article 1 of the union's proposal which relates to that demand! A. There was no meetings that I recall on the 22d.

Q. The 21st or 23d? A. Yes, we took that up, and I

objected to the laws which said that the foreman shall be a member of the union. I pointed out that it would put the foreman in a spot; that he did do'something which the union might consider unbecoming a union member, or whatever you want to call it, and they expelled him, that he had no protection under the Taft-Hartley Act. He was a supervisor. In my opinion the company, if they agreed to this language, someone would have to discharge him because if we agreed the foreman shall be a member of the union and he is expelled, we would have to get another foreman that was a member [21] of the union, and in view of that fact I thought that this foreman issue was a very serious issue because it indicated that the union had the ability, if we agreed, to put considerable pressure on the foreman to see that only union employees or only members of the union were hired. I wasn't-that's how it happened to me, and I know that is how it appeared to the company. I did offer-they pointed out that the fereman here at Haverhill had been a union member from the time he started and that he was a union member today and that if we didn't put the "shall" in there, that he might be obliged to resign, and he had mortuary payments and pensions; and it would create a great hardship, and they thought maybe the company wouldn't be able to get a person that wasn't a union member to run the composing room. I agreed we didn't want to penalize any foreman in the future or at present. I suggested that as a counterproposal we take the word "shall" out and write in the word "may." He may be a member of the union. Then if anything happened to the foreman, through some fight, internal fight within the union, we wouldn't be obliged to discharge him, and I thought it certainly would take considerable pressure off the foreman and the company, and it wouldn't give the appearance, as it does now, in combination with the general laws, of a closed shop agreement.

They definitely refused. Mr. Lyon did reflect that we would have considerable difficulty if we tried to put a non-union man over his boys as foreman; that regardless of his, [22] tanguage, if we did, that they might be able to—they probably might not work on the basis of—the sanitary conditions of the agreement. As he said, the smell of a non-union foreman would be so terrible the boys would probably have to walk out or else become deathly sick.

Q. Was anything further said in connection with that section? A. Not that I can recall.

Q. At either the meeting of January 21st or 23d was there any discussion with respect to the vacation proposal which the union had submitted? A. Yes, there was.

Q: Will you tell us what you said and what the union representative said? A. Actually on this vacation proposal, it appears in two different places. In Article 2, Section 2, down to the third paragraph on recognized holidays falling in third week vacation. Actually I suppose the words "third week" were put in to start in to emphasize their demand for a third week of vacation. I pointed out it wasn't necessary to have the third week over there and that actually it was restricted. When recognized holidays fell within a two weeks vacation period of some people, one to ten years, as proposed on the other side. I guess we agreed that could be pulled out:

In discussing this third week vacation, I did—I objected to the language and I brought up, as I discussed previously, with the publisher, the situation with respect to [23] that and tried to negotiate this swap of these slide days when a man, let's say, his day off; on a 6-day publication and they work five days, and the day off falls on a Thursday and Thanksgiving is on Thursday, he doesn't get the benefit of the holiday, that week, so he is allowed another day during the week; and in some cases it might be in a week reasonably close by. I tried to negotiate that slide day and they were

very adamant that they must have that slide day, and at the same time they wanted a third week vacation, and after some negotiations on it, I agreed that as far as the third week vacation, I wouldn't hang the contract and they would have the third week vacation with the slide day.

Q. Was there any discussion at either of those meetings with respect to wages or wage increases? A. Yes. On Friday—on Saturday—it came up Friday, I mean on Thursday, when we got to this wage section. Mr. Lyon made a short statement there about the average-New England average—the average scale being—I don't know whether it was 109 or 106, something around there. At that time I challenged his average of the scales. I told him he was taking a weighted average, not a scale average, and taking in, I don't know, maybe 700 or 800 employees in Boston against maybe the 1000 employees in the rest of New England and, of course, that brought the average up, but if he took the average scale in New England and out of 98 ownerships they probably have scale contracts with 36, at the most, on 36 newspapers. I said if he took that [24]. average scale it would probably run around \$100 or \$101. It was either at that moment or when we were discussing a few of these other economic factors he said, "The economic issues are secondary. The contract language which the ITU-which can be approved by the ITU, is of primary importance. The boys want an approved ITU contract." . That's about all we said on wages that night.

Saturday morning he did ask me if I did have a wage proposal. I told him I did.

The Court: You did not?

The Witness: I did. I did have a wage proposal. That is Saturday morning. This is what we discussed Friday. On Saturday morning he asked me if I did have a wage proposal and I said yes, I was prepared to offer a wage proposal.

Q. Did you make an offer? A. I did. On Saturday-morning.

Q. What had been the union's proposed wage scale or wage rate? A. The present rate was—that is the present rate was \$96.50. In this contract proposal, which I understand they handed to the publisher on the 8th of November, the rate they had proposed in here was \$109.55.

Q: What proposal did you make to the union in connection with rates at the November 23d meeting? A. I proposed —here is the way I worded the proposal. I called their attention to the fact that the company had made a wage increase of \$2.50 in January; that on July 3d, I believe, [25] they made another \$2 increase which, at the present, was added to \$4.50. I then offered, with the signing of the contract—with a contract on which we could agree, or approximately around the same date, and I think somebody might have made mention of November 1st, another increase of \$3.50 per week, which would have brought the scale to \$100.

Q. Did Mr. Lyon or any other union representative accept or reject that offer at that meeting! A. Mr. Lyon did not accept the offer and I would assume he rejected it because he made no comment on the offer nor did he offer a counterproposal, as you normally might expect.

Q. Did any union representative there make any reply at all to your proposed wage increase? A. Not that I can recall.

Q. At any time since that meeting, has the company heard from the union with respect to the company's counterproposal on wages? A. No, sir.

Q. You told us before at the meeting of the 23rd you and the union, for the benefit of the mediators, set up these four issues on which the strike had commenced and was continuing. Did you or the company, to your knowledge, either at that meeting of November 23d or at any time thereafter

make any proposal or suggestion to the union as to a possible method of disposition of those issues? A. Yes. Originally after the strike occurred on November 20thyou see, the union went out about 2.15 p.m., they left the building, and I think Mr. Rigazio came back and when he came into Mr. Heath's office at approximately 4 o'clock and asked permission for the men to return to the composing room and to take out their belongings, and that permission was granted. At that time Mr. Heath expressed his regret that this had happened and offered to arbitrate. Actually . he wrote a little note in writing; too, so they could take it back-offered arbitration of any issues which they felt were In dispute. On Saturday, November 23d, we had a recess at noon. Just before we broke up we had arrived at these four issues or four ....... And when we reconvened in the afternoon I offered, on behalf of the company, full arbitration on all issues in dispute.

Q. Did the union make any reply to your offer? A. Yes. Q. What was that reply? A. They rejected arbitration.

Q. Who on behalf of the union rejected the arbitration?

A. Mr. Lyon.
Q. Do you recall what he said specifically? A. No, I can't recall exactly what he said, but as spokesman for the union he rejected it.

, XQ. Mr. Parry, you didn't get into this problem at Haverhill in this particular case until after the strike had occurred; is that correct? A. That is not quite correct.

"XQ. You got in when, on November 20th? A. I was first notified on November 20th at approximately 7 o'clock—7.30 in the morning, there was a sitdown strike in the composing room. The men were there and they refused to work.

XQ. Did they tell you why they refused to work? A. Mr. Heath told me it was because they had felt that the

union and the company—union and company representatives hadn't arranged for a meeting.

The Court: Had or had not!

The Witness: Had not. And I asked him if he had—knew where Mr. Lyon was. He gave me his room number at the hotel. I made a call to Mr. Lyon and I arranged for a meeting at 2 o'clock in the afternoon.

XQ. At 2 o'clock November 20th! A. That is correct.

[28] XQ. At these meetings November 21st and 23d, you took up, in detail, I think I heard you say, section by section of the proposals; is that correct? [29] A. That's right.

XQ. Do you have the proposals, Exhibit No. 1, in front of you? A. Yes, I have.

XQ. Did you agree on Article 1 at any of those meetings? A. You mean—

XQ. Article 1, Section 1; excuse me. A. I agreed on the preamble.

XQ. You agreed on the preamble? A. Yes.

XQ. Did you agree on Article 1, Section 1? A. That is correct; I did.

XQ. Did you agree on Article 1, Section 2? A. 1 did.

XQ. Did you agree on Article 1, Section 3? A. I did.

XQ. Article 1, Section 4? A. I did.not.

XQ. You did not agree. You told the anion that you did not agree, in behalf of the company; is that right? A. Do you want to know why?

XQ. No, I didn't ask you why. Just stay with the questions, please. Did you tell the union on behalf of the company that you did not agree with Article 1, Section 4? A. That is correct.

XQ. Then when you came to Article 1, Section 5, you a told us the [30] discussion on that; is that correct? A. That's right.

XQ. And when you told us that you said you were talking in behalf of the company with no more knowledge than the company when you were answering the discussion on Section 5; is that correct?

The Court: I don't understand the question.

Mr. Segal: Let me rephrase the question, please. Did I understand you to say you knew personally about many of these things in this, new processes that are mentioned in Section 5? A. I knew about two.

XQ. You personally knew about two of them? A. That

is right.

XQ. But you indicated to the union you were talking in behalf of management and only took their knowledge? • A. That is right, and management had no knowledge of these and was acting as their agent.

XQ. You were talking as though they were doing the talking, with no knowledge of these others; is that a fair statement? A. It is a fair statement of management's.

position.

XQ. You were talking then on Section 5, Article 1, just as if you were in management's position, knowing just what management knew and no more; is that correct? A. That

is right.

XQ. Then when you came to Article 1, Section 6, did you take the same position there? [31] A. Well, that point didn't come up. Actually, you see, Mr. Lamothe, perhaps, or Mr. Lyon, challenged the fact that I knew something about some of these processes, so that point never came up again.

XQ. So that when you came to Article 1, Section 6, did you express management's viewpoint, or your viewpoint?

A. Oh, I expressed management's viewpoint, yes.

XQ. And you said, did you not, that this was a very serious problem, this problem of the foreman? A. That's right.

XQ. And was one of the basic problems as far as management was concerned in this contract proposal; is that right! A. That's how I felt, yes, from my discussions with management.

XQ. And this was keeping the contract apart, as far as you were concerned! One of the-did you agree with Sec-

tion 7 of Article 1! A. Well, I had an objection.

XQ. You didn't agree with- A. I didn't agree in full. The Court: You didn't agree in full?

The Witness: No. There was an objection.

XQ. There was an objection to Article 1, Section 7? A. Which was the same as Article 1, Section 4.

XQ. So there was no agreement on that: You were still apart on that? A. That's right.

[32] XQ. And of course you were apart, you said, on Article 1, Section 8? A. That is correct.

.XQ. And there again were you expressing your viewpoint or management's viewpoint when you told the union your objections to Article 1, Section 8? A. I was expressing management's viewpoint.

NO. As they had told it to you; is that correct? A. Yes.

XQ. And then you were apart, you say, on Article 1, "Section 9? A. That's right.

XQ: Again you were expressing management's view, point; is that right? A. Yes,

XQ. When we came to Article 10, were you in agreement with the union entirely except for the last paragraph? A. That's right.

XQ. But you didn't agree to that until about 10 o'clock on the night of the 21st on that one, I think I heard you say; is that correct? A. Oh, no.

XQ. You agreed to that earlier? A. It was during that night, but actually we had a lot more sections. We got through the entire contract by 10 o'clock, and this is on the first page. I have no time stamp here and . [33] I.don't know exactly when we agreed to it, but I would say probably maybe halfway through.

The Court: What section are you on?

Mr. Segal: 10, Arbitration.

XQ. You agreed to Article 1, Section 10, except for the last paragraph? A. That's right.

XQ. Had you agreed to Article 2 on overtime? . A. No.

XQ. In other words, the company's position on overtime was what?. A. Time and a half.

A. The contract proposal.

. XQ. That's right, I'm sorry. A. Yes.

XQ. So that there was no agreement on overtime as expressed in the proposal? A. The first paragraph. There was agreement on the second paragraph. In other words, the second-paragraph was okay.

XQ. When we came to Article 2, Section 2, holiday rates, had you agreed on that! A. With that 3-week—calling attention to this 3-week—out of the third week, yes, we.

agreed to it.

XQ. Calling attention, in the first place, that you wanted the leading? [34] A. Yes, actually it shouldn't be in there. I mean the construction of the language which indicates a person that had only two weeks' vacation—as we said; we wouldn't hang the contract on the third week, but it would indicate a person with two weeks vacation might not get the same recognition.

"When recognized holidays fall within the three weeks' vacation period, said holidays shall be celebrated on first scheduled shift following vacation per-

iod."

XQ. The question is, did you agree on Article 2, Section 2? A. In my opinion, yes. I don't think-There was just that language.

XQ. There was a difference in language? A. That three weeks. As I said, we wouldn't hang the contract on the third week. I was just trying to clean that up.

XQ. You didn't give any written counterproposal?

The Court: On the contrary, he said it wasn't ravorable enough to you.

XQ. You wanted to give us more than we asked for?

A. You can read the language.

XQ. Will you answer the question? A. Yes. Let's put it this way, I didn't imagine that you meant, or the Union meant that language might imply.

XQ. So that you were trying to help the union by cleaning it up, but you didn't write out any proposal? [35] A. No, sir, not necessary.

XQ. On Article 2, Section 3, you agreed on that, didn't you? A. That's right, I agreed on it.

XY. And on 4, the same thing? A. No.

XQ. You didn't agree on 4. Article 2, Section 4, the call-back, you hadn't agreed on that? A. The call-back was all right. Generally the call-back provision is \$1.

XQ. Excuse me. I think we would be better off if you would answer the questions. A. No, I didn't agree.

XQ. On 5, had you agreed to that? A. I disagreed at the start because this was bogus—

[36] Had you agreed on, first of all, the first paragraph? A. Let's not worry about the paragraphs. If you want me to go fast, after discussion I agreed on the language. We wouldn't hang the contract on it.

XQ. In other words, you agreed to Section 5? A. That's right.

XQ. 6? A. Yes, I agreed to 6.

XQ. 7? A. I agreed to Section 7.

. XQ. And 8! A. I agreed to Section 8.

XQ. And you agreed to 9? A. I did.

XQ. On 10 you were not in agreement, as I understand

it? A. Well, 10-A, B, or what?

XQ. Take them all as one. A? A. I agreed to that.

XQ. B? A. I agreed to that.

XQ. And C? A. I agreed to that.

[37] XQ. D? A. After discussion I agreed to it and said we wouldn't hang the contract.

XQ. When you agreed to D; was that on Saturday, November 23d, or on Thursday, the 21st? A. Thursday.

XQ. You wouldn't hang the contract on D, in other words! A. That's right.

XQ. And E, F, G, H, you agreed to? A. That's right.

XQ. Now we come to K. Had you agreed to sick leave?

A. Well, that's pretty hard. Management has a sick leave clause that is actually better than this. I didn't object to sick leave. We didn't even discuss it.

XQ. You didn't discuss K! A. No.

XQ. 11, you agreed? A. I disagreed.

XQ. You disagreed on 11. Now we come to Article 3, on apprentices. The first is the question of ratio, one to every eight. Did you agree to that! Until three apprentices are employed? A. Yes.

XY. You did agree. Two, three and four? You can take each one in turn, Mr. Parry. Did you agree on two?

[38] A. Yes.

XQ. On three was there agreement? A. Yes.

XQ. Four? A. Yes.

XQ. And five! A. No.

XQ. And six? A No.

XQ. And seven? A. Yes. Oh, I beg-your pardon. Just a second. [Examining.] Yes.

XQ. Eight? A. Yes.

XQ. Now we come to Article 4 on hours. Section 1, that

calls for 35 hours, five equal shifts. Had you agreed on that! A. No.

XQ. Had you agreed on the lunch period? A. Yes.
[39] XQ. Hours for day and night work, Section 2 of Article 4? A. Agreed.

XQ. No. 3 of Article 4? A. Agreed.

XQ. Now we come to 4. You didn't agree on the wages?

A. That is correct.

XQ. And the first offer that had been made in wages, while we are on this topic, was on November 23, as far as you know; is that correct? You hadn't made an offer the 21st? A. No. I didn't. The 23d was the first offer on wages.

XQ. And that was an offer of \$3.50 to bring them up to what you say is a total of about \$100 instead of the \$109.55

requested; is that right? A. That's right.

XQ. When you made the offer, did one of the union then ask you about retroactivity back to November 1st?

A. There was some mention of approximately November 1st being the contract date. November 1st, if that were the contract date, you would have retroactivity. Whether they put it in that way, I am not sure.

XQ. Did you agree to that retroactivity to November 1st on behalf of the company? A. I do not recall. I think I might have at that time stated—while we did talk about November 1st and November 1st as contract dates, I probably made that \$3.50 offer upon the signing of the contract.

[40] XQ. Didn't you say that retroactivity is negotiable?

A. That is quite possible, I also probably said I wouldn't hang the contract on it, one way or the other.

XQ. Then we come to the Apprentice Scale, No. 5. Did you agree with that? A. Yes.

XQ. And 6, Machinists? A. Yes.

XQ. And 7? A. Yes.

XQ. We now come to No. 8, Blue Cross and Blue Shield. Did you agree to pay the Blue Cross and Blue Shield in Article 3? A. Full Blue Cross and Blue Shield?

XQ. The proposal! A. No.

XQ. So you were apart on No. 8! A. Yes.

XQ. You were apart on No. 9? A. I disagreed with the language. I did say I wouldn't hang the contract on it, in view of the fact there was no other subordinate union of the International Typographical Union in the building or working for the company.

[41] XQ. Then we come to No. 10. You did not agree to

that? A. I did not.

XQ. You did not agree to No. 11? A. I did not.

XQ. Did you agree with 5 on Taft-Hartley Repeal or Change! A. No, I did not.

XQ. You did not agree with that. Did you agree-

The Court: You are getting ahead of me, Mr. Segal. What happened to No. 10?

Mr. Segal: No agreement on No. 108n Severance Pay.

XQ. Is that correct, Mr. Parry! A. That's correct, no agreement on Severance Pay.

XQ. No agreement on No. 11, Pension Plan! A. That's

correct.

XQ. No agreement on Article 5 on the Taft-Hartley Change! A. No agreement.

XQ: Any agreement on Section 2 of Article 5?

sir. XQ. Any agreement on Section 3 of Article 5? A. No. sir.

XQ. So these were the areas you went over an November -21st and November 23rd? A. These are the areas, sir, if I may correct you-

XQ. Let me ask - A. —that we went over on the 21st of November.

[42] XQ. Didn't you on November 23rd go over Wages? A. Yes.

XQ. So that on both days, primarily on the 21st, you took it clause by clause? A. Yes, that is correct.

XQ. There were these areas you have now told us you were apart on, is that correct? A. That's correct.

XQ. They included such things as Severance Pay, Pensions, Insurance, Overtime, Change in the Taft-Hartley Law, and a number of other things you mentioned? A. I want to check them over as you say them.

XQ. Well, if you will start with Page 1.

The Court: Why do you want to repeat this?

Mr. Segal: There is no point in repeating it, your Honor.

XQ. The areas you mentioned are the parts you were apart on? A. Yes.

XQ. The economic issues? They were economic issues?

A. Do you want a Yes or No answer?

XQ. If you car answer it? There were Wages involved and Hours involved? A. Yes.

XQ. Pensions? A. Yes.

[43] XQ. And other economic issues! A. Yes.

XQ. There were language issues, were there not? A. Language issues?

XQ. Yes. A. Yes.

XQ. During the discussion Mr. Lyon did most of the talking, I think I heard you say, for the union! A. That is correct.

XQ. On numerous occasions did he say, "That's what the boys want"? A. I can recall distinctly when he stated that the economic issues were secondary, "that what we wanted was contract language which would be approved by the International Typographical Union; the boys wanted ancapproved contract."

XQ. He used the term "the boys wanted," "that's what the boys want," on a number of occasions during the con-

tract negotiations! A. Not on any economic issues; on issues such as jurisdiction language.

XQ. He did use the phrase on a number of occasions

during the meetings, though, did he not?

Mr. Serot: I submit, sir, he has been asked the question and has answered it.

The Court: I think he has answered it.

XQ. The conciliators were in on both the meeting of the 21st [44] and the meeting of the 23rd, is that correct?

A. That is correct.

XQ. There were also separate meetings held with the conciliators, or where the company was in one room and the union in another room? A. Not on the 21st.

XQ. On the 23rd? A. On the 23rd, yes.

XQ. There was even a recess that went on, on the 23rd?

A. At noontime.

XQ. For several hours? A. We reconvened at 12:

XQ. The recess was taken at 12? A. 11/2 or 2 hours.

• XQ. When the conciliators, at the time they met with the union, of course you were not present? A. That is correct.

XQ. What went on between the conciliators and the union you have of course no knowledge? A. No, sir. You mean direct knowledge?

XQ. Yes. A. Yes.

XQ. Mr. Parry, are you a member of the bar? A. No. sir.

[45] Cross-examination by Mr. Van Arkel

XQ. Mr. Parry, were these negotiations, was this the first time that you had negotiated with the Local Union of the International Typographical Union? A. No, sir.

XQ. Have you frequently engaged in negotiations with Locals of the International Typographical Union? A. What do you mean by frequently?

XQ. Well, let me first ask you: Had you previously—A. I had.

XQ. —engaged in such negotiations ? A. 4 had.

XQ. Will you give us a rough estimate, about how frequently? A. Well, I would say during the past two years, in International Typographical Union negotiations probably five or six times or seven times.

[46] XQ. Did any of these negotiations result in the execution of an agreement between your client and the local union and the International Typographical Union?

XQ. Were any of these agreements, agreements which were approved in the sense that the International Typographical Union had approved them as you understand the term? A. As I understand the term, they cannot be signed until the International Typographical Union does approve them.

XQ. How many of these five or so instances resulted in an approved contract? A. Well, do you want me to give you the names of the parties where they resulted in approved contracts? Is that what you are looking for?

Q. All right. If you would like to do it that way, that is

all right. A. New Haven. .

XQ. Where? A. New Haven Journal Courier and Register; Taunton Gazette, Brockton Enterprise. Then there were others where they didn't result in an approved contract.

[47] XQ. But those, you say, were negotiations that occurred within the last couple of years? A. That is correct.

XQ. Did those agreements which were reached contain the clauses which were identical to or similar to the proposals which were contained in the exhibit which has been identified as Petitioner's Exhibit 1? Mr. Serot: I must object, sir. I have permitted some questioning. Now we are going far afield. There is no relevancy to this case what another company may have agreed to.

The Court: Well, if it is intended simply for cross-examination of this witness, it might have some relevance.

Do you intend it for anything further than that?

Mr. Van Arkel: No, if the Court please. The witness has stated he has objected to various of these clauses on asserted legal grounds. I suggest that it is important.

The Court: If this is for the purpose of affecting his credibility in any way, I will take it, but not for any other

purpose.

Mr. Van Arkel: That is the purpose, your Honor.

XQ. Did those agreements which were arrived at contain clauses identical with or similar to those contained in what has been identified as Petitioner's Exhibit 1? A. Well, I would have to consult the agreement to determine whether they were identical. If you are talking about [48] Paragraph 1 of Section 5, Jurisdiction, is that one of them?

XQ. I take it you mean Section 5 of Article 1? A. I beg your pardon. It is Section 5 of Article 1. Are you

talking about the first paragraph.

XQ. Let us talk about that one. A. Did the first paragraph—well, I think you are aware that since December of 1955 there could be no signed agreement without that first paragraph.

XQ. So that the answer would be that these agreements

did contain such language? A. That's right.

XQ. How about the language of Section 6 of Article 1? Did they contain that language? A. Section 6?

XQ. Yes. A. Well, you are talking about the exact language, or are you talking about: The foreman shall be a member? There might be a change, a very slight change in the language. If you are asking me whether these agree-

ments require the foreman to be a member of the union, of course that is true, they did. I mean, you couldn't get an approved contract without that.

XQ. Would the same be true of Section 4 of Article 1?

A. Section 4 of Article 1?

XQ. Yes. A. As far as stating that Journeymen and Apprentices, only [49] Journeymen and Apprentices shall perform work in the composing room?

XQ. Yes. A. Yes.

XQ. Would the same be true of Section 7 of Article 1?
A. Yes.

XQ: Section 8 and Section 9? A. Yes. Those are required.

XQ. So that you had over at least the last two years negotiated agreements with employers containing these same clauses to which you made objection at Haverhill, is that correct! A. That is correct.

XQ. Turning now to Section 5 of Article 1. In the course of these negotiations did the union represent to you that the new processes described in that section were in fact substitutes for traditional methods of doing composing room work? A. Yes.

XQ. Did you have any reason to doubt that? A. Yes:

XQ. What was the reason?

XQ, Well, number one, they never used cameras. They never used [50] film, as traditional—

XQ. Is there anything in this referring to cameras?

A. How do you get reproduction proofs?

XQ. Well, if you want to ask me the question, I will be glad to answer it. A. Reproduction proofs, wouldn't they require a camera?

NQ. I believe no. Do you know? A. Then I stand corrected. I thought on a number of occasions that they do.

XQ. Well, I am asking you to state what, if any, reason you have to doubt the union—! A. That is the reason. If I am mistaken, then I am mistaken.

XQ. Was that your only reason for doubting the union's statement? A. Oh, no. That they didn't use paste makeup

or stripping on wax.

XQ. But is not paste makeup and stripping a substitute of for traditional composing room operations? A. It could be and it might not be.

XQ. It could be? A. It could be and it might not be.

XQ. So that to that extent the union representation was: correct? A. To the extent it could be it was correct.

XQ. Did the union indicate at all what their interest was in protecting jurisdiction over such new processes? A. Yes. They wanted to work for their members.

processes were introduced into the plant, and the union was apprehensive that they would lose composing room work as a result of this, if the union was not recognized for these new processes, was any expression made to you as to whether their fear was that the particular men who lost the work because other men were going to do it would be non-union men, or was it the fear that the union as a whole would lose representation because if other men did it they wanted it to be other union men? In other words, was this going to be a transfer of work merely to the same persons or was it merely going to be a transfer of work within the jurisdiction of the union to other persons?

The Witness: Well, your Honor, with regard— The Court: Maybe nothing came up about it.

The Witness: With regard to Haverhill, if I can review it, with regard to Haverhill there was, first, it had been stated a number of times—I don't think it came up in that light—it had been stated a number of times that the [53]

Haverhill paper did not plan to introduce any of these processes.

The Court: I understand.

· The Witness: There was one process, a teletypesetter, which was in the plant, and there was no question about the operation of that under the Typographical Union as their bargaining agent. Of course there always comes this question as to whether a person is competent to do a job, I mean, things change. You might need an electronic expert as a machinist." Now the question, of course, always comes as to whether or not that electronic expert has been previously one of their members. He might not be. You still might need that man. If it's a part of the composing room operation, there is no question that the union would be his bargaining agent, in my opinion, and under the language I gave the union. But just as to a teletypesetter-that is a different kind of keyboard-well, it is exactly the same with a few minor exceptions as to odd keys as a typewriter keyboard. A linotype machine operator-that has an entirely different keyboard. If you used the teletypesetter process of setting type or punching tape, which would activate-it might be necessary to use a person that is efficient or proficient in typing; whether the person doesn't know the keyboard. Otherwise you can't get-well, the person using the hunt and peck method-you can get a lot less production out of that man than a person that is a [54] competent tvapist.

[61] XQ. In the course of your discussion of that subject, did any representative of the union point to the language of Article 2, Section 6 of the union proposal, as follows:

"No foreman shall be subject to fine, discipline or expulsion by the union for any act in the performance of his duties as foreman when such action is authorized by this Agreement, or for enforcing Office Rules, or for carrying out the instructions of the Office when there is a difference of opinion as to the interpretation of this Agreement. Such difference of opinion shall be subject to arbitration under Article 1, Section 10."

Was there any discussion of that clause in connection with the problem you raised? A. I don't recall that they pointed to this clause and said that that was in there. I do think that Mr. Lyon did say that as long as a foreman was carrying out orders by the office, even [62] though the membership didn't like them, they couldn't fire him or kick him out of the union.

[65] XQ. Would you read into the record the provisions of Article 14 of the 1957 laws? A. From general laws, 1957, page 100, Article 14, public law. Section 1.

"In circumstances in which the enforcement of observance of provisions of the general law would be contrary to public policy they are suspended so long as such public law remains in effect.".

XQ. 'Did you say "policy" A. What did I say!

"such public law remains in effect."

XQ. Yes, you read, "would be contrary to public policy." A. I beg your pardon. Contrary to public law, they are suspended [66] so long as such public law remains in effect.

XQ. Was that question discussed at all, this provision, in the course of the negotiations? A. Specifically this

provision? My attention called to it?

XQ. Yes. A. No. But in fairness to Mr. Lyon, he did say that any laws that are in violation of the Taft-Hartley Act are suspended.

[67] XQ. In your experience in the newspaper industry, has it ever come up, has there come up any instance in which the problem herein was involved, namely, whether or not any law of the International Typographical Union was being applied contrary to the Taft-Hartley Act? A. First may I state that my experience in the newspaper industry is confined to New England, and then further confined to papers outside of Boston.

XQ. I understand. A. While there's 98 ownerships in New England of newspapers, you might have between 30 and 36 contracts. Within that limited experience, I do not know of where that problem has arisen.

#### Redirect Examination by Mr. Serot

[68] Q. Mr. Parry, during your negotiations in Haver: hill, did the question arise as to whether or not any of the employees then working for Haverbill in the composing room would lose their jobs, would be discharged or laid off in the event any one of these new processes was installed by the company? A. Well, a question didn't arise, but I made that statement.

Q. You made what statement? A. That if at any future time these—any new processes were installed, that no employees—it has been management's position that no employees presently employed would lose their job as a result of these new processes.

#### Receyoss Examination by Mr. Van Arkel

XQ. Mr. Parry, as I understand your answer on this question of Teletypesetters use, the representatives of the union did indicate [69] willingness to carve out appropriate exceptions to meet your objections on that? A. The use of tape?

XQ. Yes. A. The representatives—Mr. Lyon agreed to amend Article 5, jurisdiction, to include a provision that—I haven't got the provision and he didn't give it to me in

writing, but that tape perforated by the United Press, which constituted news and could not be construed as features for which extra charges are paid, could be used, and then he had another alternate which would set up the number of scolumns of United Press tape which could be used.

XQ. Did you explore that matter further? A. Yes. We explored that. I wanted to know what the situation was

with regard to Tapco.

XQ. And what was the reply on that? A. He said we couldn't use it?

XQ. Did be give any reason! A. No. He said we could use it. I point dout we had been using it for a number of years.

The Court: Could or could not use it?

The Witness: Could not use it. I pointed out we had been using it for a number of years and we had a contract for continued supplying of this tape. He said regardless of that, Tapco was out. He didn't go into any reason why it was out, whether it was punched by non-union, but Tapco was out.

# [70] WILLIAM P. PARRY, Resumed

[72] . The Court: So you didn't know the ramifications of management's position?

The Witness: Well, sir, except that this has been a continuing situation since, well, approximately 1948. Although I was only with the Association since 1951, I was conversant and had sat in on prior negotiations, so I had considerable knowledge based on the prior negotiations.

[75] The Court: That is close enough. After the 20th of [76] November, 1957, did you have any discussion with the Gazette with relation to Section 5?

The Witness: Yes, I did, sir.

The Court: When was that?

The Witness: That took place from approximately half past 11 until 2 o'clock.

The Court: On the 20th?
The Witness: Yes, sir.

The Court: What other section did you discuss, if any, during that period?

The Witness: We discussed Jurisdiction, Foreman, the General Laws, Struck Work, and we discussed the Holidays, the various economic Overtime Holiday rates, Exchange of Type was an old—was the same language we had had before. We discussed the Sick Leave. We discussed the Vacations. We discussed the employment of substitutes. We discussed the hours. We discussed the proposed the proposed of pay, the Blue Cross, Severance, and the Pension Lan. Some of it we went over quickly, because through experience you recognize the local by their laws has to propose certain contract propositions, certain articles. It doesn't necessarily mean they have to agree to them.

Let's take, for example, Article 4, Hours. The law resquires that they propose a reduction in hours. We have a 37-hour week, which is lower than most; 37½ is the general [77] practice. And so we anticipated no difficulty as far as that was concerned. It was one of those things. You note that the 35 is there. You pass on to the next situation.

You note the rate of pay. We make sure we know what they are paying, how far they will go in negotiations. It doesn't necessarily mean our proposed money on wages is always final.

The Court: I think you have gone far enough for the moment. This conference you had from 11:30 until 2, who was present?

The Witness: Mr. Heath and Mr. Russ and Mr. Phillips.
The Court: The four of you. What was the specific discussion with relation to Section 8?

The Witness: With relation to Section 8?

The Court: Yes.

The Witness: Well, the fact that the General Laws—I think perhaps Mr. Phillips might have asked if, as far as the General Laws are concerned, their position was the same as it had been. I think we discussed the fact that not only does the General Laws, these later General Laws since 1956 included demands for the paste makeup or new processes, and that even if we headed out here, it would come in the General Laws. I know that was discussed.

At that time, I don't recall that the closed shop features of the General Laws were discussed. They had been [78] discussed on several occasions prior to that when we pre-

pared for negotiations. But that was added.

Also the fact that some other changes in the laws had been instituted, one being that as a condition of employment—the publisher as a condition of employment couldn't give a physical examination to a member of the International Typographical Union. I recail that language, that new language which I think was passed in 1956, being mentioned.

The Court: You said you thought Mr. Phillips brought up certain things. Do you recall whether Mr. Heath had brought up anything he thought was specifically wrong with Section 8?

The Witness: No. I don't recall Mr. Heath discussing anything particularly wrong with Section 8, other than the fact he agreed at that time that jurisdiction was in the new General Laws. Mr. Heath on psior occasions had been very vocal on the General Laws, including this.

The Court: You mean even before that Jurisdiction!

The Witness: Yes, including the fact he felt the General Laws were in violation of the Taft-Hartley Act, and still gave the union a closed shop. But in going over this at lunch we-I don't recall touching on the closed shop issue at that meeting.

# [79] Further Cross-examination by Mr. Segal

[80] XQ. On November 20, 1957 you had a discussion with Mr. Heath and Mr. Wesley Russ between about 11.30 and the time you met again, is that right? A. Yes, while we were eating, too.

XQ. Mr. Phillips at that time was explaining the general position, was he not? A. Examining the position.

XQ. Examining the position! A. Yes.

XQ. He pointed out, did he not, Section 5, was one of the problems? [81] A. Yes. We discussed Section 5. We discussed the General Laws, too, in relation to Section 5.

XQ. You didn't do much of the talking, did you, Mr. Parry! A. On that day, yes.

XQ. Yes? A.: I did some.

XQ. You did some? A. Yes.

XQ. Mr. Phillips did more? A. I can't say.

# [137] FRANK A. PHILLIPS, Recalled Direct Examination by Mr. Van Arkel

Q. Mr. Phillips, you are familiar with the language of Section 5, Article 1, of Petitioner's Exhibit 1 in this case, dealing with Jurisdiction? A. Roughly, yes.

Q. Do you know whether or not provisions similar to that are contained in a collective bargaining agreement presently in effect between the Boston Daily Newspapers and the Boston Typographical Union No. 13? A. I would assume so. I have nothing to do with Boston.

Q. Do you know that a similar provision is contained in the agreement with the newspaper at Manchester, New

Hampshire? A. I haven't seen a contract—unable to get one. It's not affiliated with the Association.

[138] Q. 'At Lawrence, Massachusetts? A. Yes; it is.

Q. At New Hayn, Connecticut? A. Yes.

Q. At Lynn Massachusetts! A. Yes.

Q. At Lowell, Massachusetts? A. Yes. Q. At New Bedford, Massachusetts? A. Yes.

Q. At Taunton, Massachusetts! A: Yes.

Q. And do you know that there are other contracts in effect with newspapers in this area containing similar provisions? A. Yes.

[168] Mr. Serot: I will do that.

With respect to the violation of Section 8 (b) (2), first we submit that the contract on its face contains an illegal provision. Article 3, Section 6, of the contract provides as follows:

"No apprentice shall discontinue work on one shift and accept work on another shift or change from one employer to another without the consent of Haveshill

Typographical Union No. 38.

Discontinuance of work on the shift is not material in our opinion.

[178] Mr. Serot: There is nothing in the contract on its face except for Article 3, Section 6, which provides for an apprentice securing the permission of the union in order to go to work for Haverhill. There is nothing there which says a man must be a union member or that he may not be a union member in order to work for the company.

## March 18, 1958

| 213 | WOODRUFF RANDOLPH, SWOTH Direct-Examination by Mr. Van Arkel

Q. Will you give the reporter your full name, please:
A. Woodruff Randolph.

Q. Your present address? A. 3140 Medford, Indianapolis, Indiana.

Q. What is your present position, Mr. Randolph! A. President of the International Typographical Union.

Q. For how long a period of time have you held that position? A. Since July 15, 1944.

Q. Is that an elective office? A, Yes.

[219] Q. Yes, Mr. Randolph. During the period of time you have been a member of the Executive Council, has the Executive Council had occasion to determine whether or not subject matters which were covered by the general laws of the International Typographical Union might be submitted to arbitration under agreements held by affiliated local unions of the International Typographical Union with employers?

Mr. Serot: May I just note I don't want to interrupt, but may I have a continued objection to this line of questions?

The Court: Yes.

Mr. Serot: Thank you.

The answer is, Yes.

Q Car you describe the classes of cases in which the Executive [220]: Council has had occasion to rule on that specifically! A. The classes of cases have been many times that question involved in the feproduction of advertising. The Laws provide a certain method of reproduction, and local unions make contracts more specifically in detail, and if there is a dispute as to the facts concerning a given advertisement, that matter has been arbitrated numerous times.

past ruled that that was a matter which might or should be taken to arbitration? A. Yes.

Q. And what was the Executive Council's ruling? A. The ruling has always been that the facts concerning any dispute, whether governed by the contract provision or governed by a law effective through a local commitment, is subject to arbitration and settlement as a finality by the joint standing committee.

[225] Q. Could you describe similarly the origin of the second sentence of Section 3? A. The second sentence was put in to prohibit a local union from arbitrating whether or not a general law of the ITU was to be effective. It has no reference to the arbitration of the facts of any dispute. It's only whether or not they would arbitrate whether or not to exclude the general law from a contract; or to arbitrate whether it could be effective or not.

Q. Mr. Raudolph, will you summarize for the record the provisions of the Laws of the International Typographical Union with reference to the calling of strikes? A. The provisions as to strikes are found in Article XIX of the By-Laws, which sets out the procedure in detail. Briefly, the local union—

The Court: What page is that!

[226] The Witness: Beginning on Page 64.

A. Section 1 specifically provides that-

"In the event of disagreement between a subordinate union and the employer which in the opinion of the local union may result in a strike, such union shall notify the President, who shall in person or by proxy investigate the cause of the disagreement and endeavor to adjust the difficulty. If his efforts should prove futile, he shall notify the Executive Council of all the circumstances, and if a majority of said Council shall decide that a strike is necessary, such union may be authorized to order a strike."

- Q. Now specifically with reference to the situation arising in Haverhill in November of 1957, was Mr. Lyon present there by designation by you? A. Yes.
  - Q. Pursuant to the provisions of Section 1 of Article XIX? A. Yes.
  - 1228] Q. Mr. Randolph, prior to the time that a representative is sent by the President of the International Typographical Union in an effort to adjust a difficulty, are local unions required to request authorization to strike? A. Yes. They are required, under this first section, to call upon the International President for service in, first, the effort to adjust the matter peaceably, and it is in regard to Section 1 that they notify me as so provided in that section, and I then assign a representative or officer who acts as a representative, both of them acting as my proxy to investigate the difficulty. In that respect they try to mediate the differences and arrive at a satisfactory conclusion if possible.
  - Q. Do you or does any representative appointed by you have power or authority to direct any local union to engage in a [229] strike? A. No, sir.
  - Q. What do the Laws of the Union require with respect to the taking of a ballot by members of a local union on the calling of a strike! A. Such procedure must first have the sanction of the Executive Council of the International Typographical Union.
  - Q. And what steps are taken thereafter? A. If the Executive Council grants authority to a local union to take a strike vote, the local union will take a secret ballot vote on that question, and, if it carries, the strike will be put into effect by the local union at such time as they provide at the time they take the strike vote.
    - Q Is that by a simple majority vote! A. Yes.
    - Q. Does the International Typographical Union or its.

Executive Council have any power to enter into any collective bargaining agreement? A. It does not.

[231] Q. The question related to the powers of the ITU to enter intermy collective bargaining agreement with any employer. A. No, it has no such power.

Q. Where does such power reside? A. Within the

local union:

1

Q. Is there a particular provision of the General Laws dealing with that subject matter? A. Yes. Article III, General Laws, beginning on Page 85.

[232] Q. When did the language of Section 8, Article 1 of the proposed contract submitted by Local 38—"not in conflict with law"—first appear in agreements between affiliated local unions and employers?

The Court: I exclude it.

Mr. Van Arkel: Well, if it please the Court, I would like to make upon the record as my offer of proof in this matter—

The Court: Certainly.

Mr. Van Arkel. —a statement with respect to it because I think it is presently not contained in the record.

The Court: I wouldn't want to have it hidden. You

[233] go ahead.

Mr. Van Arkel: Oh, I would swear to that. If the witness were permitted to answer, I would ask him a series of questions which would develop that the phraseology—"not in conflict with law"—was first introduced into agreements between affiliated local unions of the ITU and employers immediately after passage of the Taft-Hartley Act in 1947; that it was introduced in order, and only in order, to make certain that no law of the ITU would be applied under circumstances which would bring it in conflict with the

Taff-Hartley Act, or a State or Federal law; that, in 1953, by convention action of the International Typographical Union an amendment to the General Laws was adopted, which reads—

"Section 1. In circumstances in which the enforcement or observance of provisions of General Laws would be contrary to public law, they are suspended so long as such public law remains in effect."

That over the course of the years since 1947 the International Typographical Union on frequent occasions and in a Variety of manners has directed its affiliated local unions to make certain that no law be applied in which fashion as to contravene the Taft-Hartley Act; that in the period of these years there have been no complaints by either employers or by the National Labor Relations Board that any law has in fact been applied in [234] such manner as to conflict with the Taft-Hartley Act, and that no complaints to this effect have been received from any source, that when, the officers of the International Typographical Union have been consulted as to this matter, they have attempted to advise local unions whether or not the proposed application of a general law in a particular set of circumstances might or might not be violative of Federal or State law, and that from time to time they have sought legal advice on this question; and that there are manifold circumstances in which every general law of the International Typographical Union may be validly applied as to enterprises not affecting interstate commerce or in Canada where it has local. unions.

That is the extent of the offer of proof, your Honor.

#### Cross-examination by Mr. Serot

XQ. Mr. Randolph, I think you told us that when Mr. Lyon participated in the negotiations with the Haverhill-Gazette in November of 1957, he was there as a representa-

tive of the International pursuant to your instructions.

That is right.

XQ. Had the Executive Council, before Mr. Lyon went there, considered or taken up for consideration this dispute between [235] the Haverhill Gazette and Local 38? A. It took up the request of Local 38 for strike sanction.

XQ. Had the Executive Council authorized such a strike by Local 38? A. It authorized Vice-President Lyon to exercise the vote powers of the Executive Council in deciding that question.

# ANTHONY RIGAZIO, SWOTH Direct Examination by Mr. Segal

Q. Your name, please? A. Anthony Rigazio.

Q. And you live where! A. 28 Wayne Street, Bradford, Massachusetts.

Q. And your position with Local 38 of the ITU? A. President.

Q. And, roughly, how long have you been President, Mr. Rigazio? A. Since January 1, 1950.

Q. And as President was it one of your duties to conduct the negotiations here? A. Yes.

Q. With the Haverhill Gazette?

[245] Q. There has been some testimony about a strike vote. Was there a strike vote taken by the union? A. Yes.

Q. When was the strike vote taken? A. On November 19.

[246] Q. Was this a secret ballot strike vote? A. Yes.

Q. Could you tell the Court what the result of that secret strike vote was? A. 24 to nothing.

Q. And the strike was called on what day! A. November 20.

Q. Was that the day following the November 19 meeting? A. Yes, sir.

Q. At the strike that took place on November 20 did anyone order you or the men to go out? A. No, sir.

# Cross-examination by Mr. Serot

[248] XQ. I think you told us that no one ordered you out on strike on the 20th. Were you present when the strike began? A. Yes, sir.

XQ. Was Mr. Lyon present? A. Yes, sir.

XQ. Did Mr. Lyon talk to you or the other members of the composing room crew before they walked off on strike? A. Yes, sir.

XQ. Would you tell us what he said to you and the other members of the composing room crew? A. He said that the management's position had not fundamentally [249] changed on any single issue.

XQ. Is that all he said? A. Yes, sir.

XQ. Didn't he say anything to the effect that therefore the men should go out on strike? A. No, sir. We knew that was a condition of going out on strike.

XQ. In other words, then, you accepted his statement as a signal to you for the commencement of the strike: is that correct?

Mr. Segal: Objection.

The Court: Excluded.

XQ. Did he report at all the fact that a strike should ensur because of management's position?

The Court: I don't understand the question.

Mr. Serot: I withdraw it.

XQ. Did he mention the word strike at all? A. No, sir.

No. sir.

XQ. Did anybody tell the men to stop working! A. No. sir.

XQ. This strike vote—had the members of the union agreed that, in the event Mr. Lyon reported to them that management hadn't changed its position, the men would go on strike! A. Yes, sir.

[250] XQ. Was Mr. Lyon aware of that agreement among

the members of the union? A. Yes, sir.

[263] Mr. Van Arkel. Well, it the Court please, I think the answer to your Honor's difficulty lies in this. Your Honor will recall that the laws clause which was presented earlier—and certainly similar clauses will be presented here—provides that the laws shall govern as to those matters not covered by the contract.

The Court: And I recall also reaching the conclusion that even what that meant was not to be a matter of negotiation.

Mr. Van Arkel: Oh, no. The parties are perfectly free, if the Court please, to negotiate anything in the contract they wish.

The Court: But not to the extent that they conflict with

the laws.

Mr. Van Arkel: That is correct. We would say the minimum conditions set forth in the laws cannot be reduced below that level, but if the parties want to make other and different arrangements not in conflict with the laws, they are perfectly free to do so.

[269] Mr. Van Arkel: Well, the laws do make a provision for minimum weekly hours, but the parties are absolutely free within those limits to negotiate whatever hours they. Tike.

# PROCEEDINGS [1-CB-429] [1-CB-430]

[9] Mr. Kowal: All right, on Page 2 you will notice that [10] you have a Paragraph 9, and on Page 7 you will notice that there is a Paragraph 9. I wish, therefore, to amend the numbering as follows: That Paragraph 9 on Page 7 should read Paragraph 10, that Paragraph 9(a) on Page 7, which is now 10(a); where it mentions Paragraph 8, should read Paragraph 9; Paragraph 9(c), which is now 10(c); where it mentions Paragraph 7, that Paragraph 7 read Paragraph 8; now, Paragraph 16 on Page 8 should now read 11; and so on, consecutively with all the remaining paragraphs. I should like to amend Paragraph 10 on Page 8 which is now Paragraph 11, where it mentions Paragraph 8 and 9, to read 9 and 10. I should like to amend · Paragraph 11, now Paragraph 12, where it mentions Paragraph 8, should read Paragraph 9: I should like to amend Paragraph 12, now Paragraph 13, on Page 9, where it mentions Paragraph 8, to read Paragraph 9. I'd like to amend Paragraph 13 on Page 9, which is now 14, where it mentions 9, to read 10. I would like to amend Paragraph 14, on the same page, which is now 15; where it mentions Paragraph 8 through 13; to read 9 to 14.

Those are my amendments.

16 Mr. Van Arkel: This is to make more definite and certain the provisions of Paragraph 9(c) of the Complaint, on Page 3, that presently states "Among the provisions referred to above in sub-Paragraph B, with provisions," and so forth.

Now, I would like to have Mr. Kowal specify at this time what, if any, additional provisions the Complaint may make reference to.

Mr. Kował: May I have a few minutes. Trial Examiner: Yes.

Mr. Van Arkel: Mr. Examiner, I'd like to have this same motion extended to Paragraph 8(c) of the Complaint in the Haverhill case, 1-CB-429; and in order to make this motion all in one piece, I guess I'd better also say that the motion should extend to Paragraph (d) on Page 5, which says "Among the provisions in the General Laws of the I.T.U.," and the similar section in the Haverhill Complaint, Section (d) of Paragraph 8 on Page 4.

[17] Mr. Kowal: Speaking personally, and not having drawn the complaint myself, I, of course, would like to hold the right to add or detract from these statements as, shall I say, an occasion demands; but I think my brother does have the right to know precisely what we allege in the General Laws and contract. I, therefore, will state that we assert only these provisions, and no others, to be-violations.

Mr. Segal: And will you agree to remove the word "among"?

Mr. Kowal: Yes.

RICHARD C. STEELE [18]

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

## Direct Examination

- . Q. (By Mr. Kowal) What is your occupation, Mr. Steele? A. I am general manager of the Worcester Telegram and Gazette.
- [19] Q. By the way, is there a strike going on now of any employees of the Worcester newspaper? A. There is.
- Q. And who is striking? A. The Worcester Local No. 165 of the International Typographical Union.

Q. When did that strike begin! A. On November 29, 1957.

· Q. And did it follow a series of negotiation meetings over a contract submitted by the Union! A. It did.

Q. Has his Local represented a majority of the employees engaged in composing room work for some time?

A. Yes, it has

Q. How long! A. Oh, for over 70 years, I believe, to the best of my knowledge.

[21] Q. (By Mr. Kowal) As I say, are you using notes to [22] refresh your recollection? A. Yes, I have a series of dates and facts here that have been taken from the notes made at the negotiation sessions.

Q. All right, now, again, Mr. Steele, would you tell us when these meetings occurred in 1956, and then go on into 1957 for us. A. 1956, there were 6 negotiation sessions held with the Local Union present. The president of the Union at that time was Mr. James Quinn. As I testified, the proposal was received on August 21.

Q. No. just tell us how many meetings there were in 1956. A. There were 6, and the first was on October 24.

Q. And in 1957, how many? A. 1957, there were 6, also.

Q. And the months that these meetings occurred in '57, could you tell us anything about that? A. In '57, yes there was one on January 10, one on January 22, one on January 30, one on February 8, one on November 26, and one on November 27.

Q. And the strike, I believe, began on the 29th? A. November 29.

[23] Q. So that I take it these bargaining negotiations appear to divide themselves into two periods, from October, '56, to February, '57, and then the meetings resumed in November '57, is that correct? A. That is correct.

Q. Now, having in mind the first period, namely, the period from October, '56, to February, 1957, who custom, arily represented the Employer at these bargaining sessions?

Q. (By Mr. Kowal) Who customarily represented the Employer in what I'd call the first period, Mr. Steele, in October, 1956, through February, 1957: A. Mr. Frank

Philips.

Q. And identify him, will you! A. Mr. Philips is manager of the New England Daily Newspaper Association, and engaged as labor relations negotiater for the Worcester

Telegram and Gazette.

[24] Also, Mr. Alfred S. Arnold, production manager of the Telegram and Gazette; Mr. Howe C. Monteith, who is our cost and methods engineer; and myself. That was the Company.

Q. In this group, who was the chief spokesman? A.

Mr. Philips was the chief spokesman.

Q. Now, during this period that I'm speaking of, let's call it October, 56, through February, 57, were there any additions to the Employer representatives!

A. To the Employer, yes, there were. In the January 30 meeting, Mr. Elisha Hanson, Mr. Robert Bowditch entered negotiations for the Company.

Q. And was Mr. Hanson also at the February meeting.

the meeting in February! A. Yes, he was.

Q. Now, again in this first period, who customarily represented the Union? A: In the first period, Mr. Quinn, who was president of the Union at the time, I believe, Mr. Joseph Mahoney, Mr. Daniel Foley, Mr. Joseph Millette, and Mr. Alfred DeLorme.

Q: Now, were there any additions to the Union representation during this period? A. Yes; in 1957, Mr. Wils

liant LeMothe entered the negotiations on January 10; and he also was present at the January 30 and [25] February 8 meetings.

Q. Would you identify Mr. LeMothe? A. He's a representative, an International Representative of the International Typographical Union.

Q: 'Now, these other Union spokesmen of whom you spoke about, apart from Mr. LeMothe, did they go by any name, any committee name! A. They are known to us as the Union Scale Committee.

Q. Now, the introduction of Mr. LeMothe in the January of 1957 meeting, who is, as you said, did you identify him? What is he, again? A. As an International Representative of the International Typographical Union.

Q. His introduction in January of '57, did that follow any pattern that had been established in the past! A. Our experience in the past has been that we have negotiated with the Local Union up to a certain point; if an agreement was not then reached, we would, rather, they would bring in an International Representative to further their efforts.

() Now, during this period that we're speaking of this first period, were there mediators present at any of these meetings? A. There were mediators present in the early 1957 meetings, in January, specifically, on January 22 and on January 30.

Q. (By Mr. Kowal) Now, Mr. Steele, I want you to describe as best you can, confining yourself to what was said in the period of the 1956 meetings and before LeMothe came in, what [32] was the Company's position, its expressed position, as to this jurisdictional clause?

The Witness: The Company's position as far as jurisdiction is concerned was that it felt that the language contained in its counter-proposal which described the work in the composing room as it was contained in the previous contract, with the addition of the words "but is not limited to," and with the climination of the non-introductory clause that was contained in the previous contract, gave the Typographical Union jurisdiction over all composing room work. The Company position was with reference to any new processes, that it did not have any in mind.

Now, this is over this period of 1956, during the aegotiations; in general, it had nothing in mind as far as new processes were concerned, except the possible use of Wire Service Tape that is produced by the Associated Press, and the United Press, and the International News Service. The Company's position on that was that he would give the Union jurisdiction over the processing of that tape as it runs in [33] through the Monotype and Linotype machine; but it would not tolerate any limitation on the use of that tape; that if we were going to make an investment and capital expenditure in a new process such as that, it was being done in an effort to reduce costs because we were faced with economic problems, with competition from other media, and so on, and we just had to face up to reducing costs as best we could:

Some of the discussion revolved around the use of this tape; and the Union proposed that certain tape be excluded from use in the teletype operation, specifically certain features for which extra charges were made by the news services.

As far as many of the named processes are concerned, ones which we had not employed nor did not contemplate employing during the contract period, the Company took the position that it was unwilling to concede in advance, jurisdiction over representation over these processes, many of which it was not familiar with, and none of which it had any intention of introducing during the life of the contract.

Q. (By Mr. Kowal) Do you recall whether the Company said anything about the granting of this jurisdictional clause possibly resulting in a conflict with other unions?

A. Yes. That came into negotiations because of a conflict in Milwaukee.

Q. What did you say in this negotiations as to that?

[34] A. That entered into the conversation.

Q. All right, go ahead. A. There was a disagreement between the Typographical Union and the photo engravers union as to the jurisdiction over photo-typesetters in use in Milwaukee, and in other places; and we just felt, we stated our position that we didn't want to get in the middle of a jurisdictional fight of that kind when we weren't contemplating the installation of that machinery in our plant; there's no sense to it. If and when we were going to, that would be something again.

Q. Now, Mr. Steele, as to Article 1, Section 7, which I shall call the General Laws clause, what position in this period did the Employer express as to that clause? You know what I'm referring to, sir? A. May I see it.

Q. Yes, here's a copy, Article 1, Section 7. A. Yes. That is the article that provides that the General Laws of the International Typographical Union in effect at the time of execution of this agreement not in conflict with state or Federal law shall govern relations between the parties on those subjects concerning which no provision is made in this contract.

The Company position on this clause was that we were willing to agree to the General Laws of the International Typographical Union to the extent to which they were negotiated and made part [35] of the contract.

Q. Did the Company state any easons for its refusal to accept that clause, give any reasons? A. Yes.

Q. What were they! A. There were many provisions in the International Typographical Union laws that, in our

opinion, were illegal. They provided for a closed shop, and

Mr. Van Arkel: Mr. Examiner, I think that the witness should be confined in what the conversation was. His characterization of what he thinks about things—

Q. (By Mr. Kowal) You understand my question was concerned only about what was said by the Company spokesman. A. Yes, these were said, these matters were said

in negotiations.

Q. Tell us what was said. A. Also, the requirement that a foreman be a member of the Union, our position on that was that they had no objection to a foreman being a member of the Union provided he wished to be, but that we would not be a party to a contract mandating that he must be a member of the union. We also objected, in general, to the inclusion of laws in which we had no participation in formulating; they are unilaterally adopted in a union convention, and the Employer has no voice in the actual formulation of what is—

[38] Q. Would you go on, then, and tell us what was said by the Union on these matters during this period we're speaking about. A. Would you tell me which matter, Mr. Kowal?

Q. First, the jurisdictional clause, and then, the General Laws clause. A. On the jurisdictional clause, Mr. Quinn, at the October 24 meeting, said that we must, that the language must be taken as it was submitted, that there would be no change in that; and we asked if there was, on the November 1 meeting, we asked if there was any chance of a written agreement without the [39]. Union language on jurisdiction and laws; and Mr. Quinn said plain no is the answer to that. And, at that same meeting, Mr. Millette said that the money matter is not as important as the settlement of the jurisdiction question and I.T.U. Laws.

He said that the Union was sick and tired of working without a written contract, and that in order to have a written contract it must contain language approved by Indianapolis, the L.T.U. hendquarters, and that was it.

And, on November 8, the Union turned down the Company counter-proposal at that meeting; and also read a resolution that had been adopted by the Local Union complaining against the Company's procrastinated attitude in attempting to arrive at a contract.

On the November 8 meeting, the Company offered to arbitrate on any question of a jurisdictional dispute; and Mr. DeLorme asked if a new process were introduced without the consent of the Union what rights of protection would the Union have; the Company said, "Well, we would be willing to arbitrate such a matter." And on that, Mr. Foley said that on the matter of jurisdiction there is no compromise, period.

- [40] Q. (By Mr. Kowal) Mr. Steele, what did the Union say in these '56 meetings as to the General Laws proposal?

  A. Mr. Quinn said that the General Laws must be taken as included in the Union proposal.
  - [42] Q. (By Mr. Kowal) Mr. Steele, in the same manner that you [43] described the Union's position and the Company's position, of course, confining yourself to what was said, in the period of 1956, I want you to tell us what went on in that matter in January, 1957, after LeMothe came in, and before the meeting of January 30 when Mr. Hanson entered the picture. A. Well, Mr. Lemothe entered the negotiations on January 10, 1957; and he asked what the Company position was; and our reply was that it was basically as it had been two years ago. We asked if there had been any change in the Union position; and Mr. LeMothe said no. Specifically, we asked with reference

to the I.T.U. laws and jurisdiction, and Mr. Lemothe said that the Union language must be taken.

The Company made an offer at that time. We said that we would counterpropose which processes would be used and which would not be used during the contract period. Mr. LeMothe then asked, "What about the I.T.U. Laws?" And we said that we will be willing to negotiate them individually. Mr. LeMothe's reply to that was no; and he said that they would then notify the Federal and state mediation services that we had arrived, apparently, at a stale-mate. The Company said that they would continue to be willing to negotiate a contract based on its present position.

And, on January 22, there was a meeting; as I recall, the meeting was not between the Company and the Union; the Federal and state mediators were present, Mrs. Anna Winstock [44] for the Federal Mediation Service, and Mr. Anthony Bracia for the State Conciliation Service.

The mediators talked separately with the Union and with

the Company.

Q. Tell us what was said in that meeting as best you recall. A. Well, Mrs: Winstock came into our office, into my office, after having talked with the Union, and she said that the disputed clauses would have to be settled first, that the Union was not interested in talking fringes, and so on, but what they wanted, basically, was a signed contract under which they could operate.

The Company, upon questioning by Mrs. Winstock and Mr. Bracia, said that we refused to take the jurisdiction and the laws, which we contended, we told her were in violation of the Taft-Hartley Law and the 7th Circuit Court decision.

We were willing to make any reasonable concession and liberal wage settlement in order to settle this thing, but we could not give in on these illegal matters.

We were then told that the Union position was that they want a contract, they want an I.T.U. approved contract; and

we were told that they would ask for a strike sanction vote on January 23, 1957.

Q. The next meeting was January 30, 1957, I believe. A.

Yes, .it was.

Q. And I believe you testified that that was the meeting at [45] which Mr. Elisha Hanson was present, is that correct? A. That is right.

Q. Was Mr. Hanson retained by the Employer, that is, the Worcester newspaper? A. He was privately en-

gaged by the Worcester Telegram and Gazette.

Q. And was he the chief spokesman at the two succeed-

ing meetings? A. Yes, he was.

Q. Tell us what was said by whoever spoke at this January 30, 1957, meeting? A. Mr. Hanson said that the Company would not be bludgioned into a contract that was in conflict with the Taft-Hartley Law; and even if there was some way of working out the jurisdiction language, we would not take the laws in toto. This statement was made. The mediators were present at this meeting.

The Company, Mr. Hanson said the Company was willing to make a legal contract on wages, hours, and working conditions, with no recognition of the laws, perfectly willing to start at scratch; and the Union had said that they had never had a complete counterproposal. Mr. Hanson said, "Well, you should have one, and I shall start at scratch and give you a complete and legal counterproposal, legal by the laws of the Land, not necessarily legal by the I.T.U. Laws." And at that point, the meeting adjourned.

[46] Q. Did the Employer submit a contract between this meeting and the next meeting? A. Yes, it did.

Q. And that is the document we have already identified, I believe.— A. Yes.

Q. —as General Counsel Exhibit No. 5, that correct?

A. Yes, submitted on February 6.

Q. The next meeting, I take it, was February 8, 1957! A. Yes, it was; again, with mediators present.

Q. All right, sir, tell us again as best you can what was said in that meeting. A. At that meeting, the Company position remained the same as far as the laws and jurisdiction were concerned. There was some discussion about the tele-typesetter operation, and again we said that we were willing to give the Union jurisdiction over that, but with no restrictions on its use.

Also, at that meeting, we offered the non-introductory clause; and we also offered, Mr. Hanson offered a posted notice.

Q. By the non-introductory clause, you were referring to what? A. I am referring to a proposal by the Company not to introduce certain of these disputed processes or machines during the life of the contract.

[47a]. Q. And I believe that's General Counsel Exhibit No. 4 that you have already identified, is that correct? Yes, that's correct.

Q. Tell us what was said at this meeting. A. Well, then, Mr. Hanson offered, he said that we were obviously at an impasse, that we couldn't arrive at an agreement.

Q. What position did the Union, what did the Union say as to these things when the Company said its position was the same? A. Well, the Union said that their position remained as it had; there was no change in their position. So, Mr. Hanson said, "Obviously, there is an impasse here, and we will propose to give you a posted notice which will give you an idea as to wages, hours, and working conditions. There is no contract here, it's merely an offer to you to attempt to resolve this thing, to get it off an impasse."

The Union did not object to Mr. Hanson's drafing a notice; and he did draft it, and he read it to them. Mr. LeMothe objected. It provided for two wage increases: and Mr. LeMothe objected to the termination date where

it said on the second increase that it would, that there, would be a definite cut-off date; and Mr. Hanson agreed to have it read "On and after January 1, 1958."

Mr. Mahoney asked about the inclusion of an extra slide day, funeral leave, and jury duty pay, which had been [48] discussed previously; and Mr. Hanson agreed to include these provisions in the posted notice.

The Union asked for, through Mr. LeMothe, as I recall it, for an increase of \$6.00 the first year, and \$6.00 the second year. We cancused, took that into consideration, and came back. As I recall, Mr. Bracia, no, Mr. LeMothe said, "What happened to our 6 and 6, \$6.00 and \$6.00?" And Mr. Bracia said, "It has gone out the window; and the Company would consider increasing the scale \$4.00 the first year and \$3.00 the second year."

The Union asked if it would consider 4 and 4. The Company said it would take it under consideration and give its decision on the posted notice.

Mr. LeMothe said "This is no contract," and Mr. Hanson agreed, said "It merely gives you something under which you can operate." And on February 9, that notice was posted.

'Q. And did this notice contain an increase of \$4.00 and \$4.00? A. Yes, sir.

Q. And did it contain these other things Mr. Hanson, rather, Mr. Mahoney asked about, the slide day? A. It contained the extra slide day, the jury pay provision, and the funeral leave provision.

Mr. Kowab: Would you mark these as General Counsel's Exhibit No. 6 for identification.

[49] Q. (By Mr. Kowal) Now, I show you what has been marked General Coursel Exhibit No. 6 for identification and ask you what that is, sir. A. This is the notice that

was posted in the composing room of the Worcester Telegram Publishing Company on February 9, 1957.

Q. All right, sir.

[50] (By Mr. Kowal) Before going on, Mr. Steele, to the matters after February 9, I'd like to show you Article 1, Section 9, of General Counsel Exhibit No. 2 and ask you whether or not in the period that we have been discussing, namely, from October, '56, through February of 1957, the Employer expressed any position as to Article 1, Section 9, and if so, what that was!

A. I don't recall any specific discussion of that article.

Q. How about Article 1, Section 12, on the next page, did the Employer take any position as to that Article 1, Section 11, as to that, if so, what was that?

Mr. Van Arkel: Article 1, Section 11, or 12?

Mr. Kowal: Article 1, Section, 12.

Q. (By Mr. Fowal) Did the Employer take any position as to that in that period; if so, what was it? A. I cannot recall any specific discussion of that.

[56] Q. Now, at this meeting of November 26, 1957, who represented the Employer? A. Mr. Hanson, Mr. Bowditch, Mr. Weinrich, Mr. Parry, who was associate manager of the New England Daily Newspaper Association, Mr. Winrick and myself.

Q And for the Union, who was present, who represented the Union? A Did I mention Mr. Bowditch in that? Mr.

Bowditch was also present.

Q. You mentioned him. A. For the Union, the members of the Local Scale Committee, plus Mr. LeMothe and Mr. Lyon, Charles M. Lyon.

Q. Would you identify Mr. Lyon, please. A. Charles

M. Lyon is first vice-president of the International Typographical Union.

Q. All right, Mr. Steele, would you tell us as best you recall what was said by whoever spoke at that meeting on November 26, 1957. A. Mr. Hanson said that the Company continued to be willing [57] to sign a legal written contract, perfectly willing to sign it, but it would not include a foreman, that is, the provision for a Union foreman, or the jurisdiction, or the I.T.U. laws as contained in the Union proposal.

At the meeting on November 26, the Union proposal was gone over in detail. Mr. Hanson again reiterated that the Company merely wanted a legal contract. Mr. Lyon said that it would be a legal contract if the Company agreed to it; and Mr. Hanson denied this. Mr. Lyon said that in connection with the jurisdiction clause the Union was fighting for job security, and that the Company was denying the Union its proper rights of jurisdiction. Mr. Hanson said that it wasn't a question of jurisdiction, it was one of representation, that any group of individuals had the right to select their own collective bargaining agent or representative as provided by the law, and that the Company could not and would not sign a contract that contained a clause that forced employees into the Union.

Mr. Lyon said that the Union had taken a strike vote, that the Company was denying the Union its rights of jurisdiction. Mr. Hanson said that the Company would be willing to let the forence elect to be a Union member, but was unwilling to mandate that he must be one. Mr. Hanson asked if the Union would look over the Company proposal and meet again tomorrow, which would have been November 27. Mr. Lyon agreed [58] to this.

Q. Was there any discussion of economic issues at that, meeting? A. As I recall it, I believe Mr. Lyon said-that there were other issues here, other than these three, but

that these must be solved, these must be resolved before any written approved contrag would be entered into.

Q. Did he say what those other issues were? A. I. can't recall in detail, but they would have to do with wages, hours, and working conditions, the overtime rate, the extension of the eligibility for liberalization of eligibility for a third week of vacation; there were several of those that, were not agreed upon.

A. Mr. Malioney brought out the fact that in connection with the jurisdiction matter and pays makeup, that his men had been trained in the Indianapolis training center, and had [59] returned to Worcester, were trained and were ready to take over the entire paste makeup operation.

Q. (By Mr. Kowal) What did he say in reply, if anything, to that assertion of Mr. Mahoney, the statement of Mr. Mahoney! Did he say anything! A. I can't say: I can't recall that answer.

Q. All right, now, on November 27, who was present for the Employer? A. The same people who were present at the November 26 meeting.

Q. Same cast? [60] A. With one exception, Mr. Phile ips was present, and Mr. Pare was absent.

Q. All right, sir.

Now, again, as best you can, tell us what was said at that meeting. A. Mr. Mahoney said that the Union could not accept the Company proposal; they had gone over it, and could not accept it.

Mr. Hanson stated that the Union foreman, and jurisdiction, and the I.T.U. laws were the stumbling blocks toward arriving at a written agreement; that the Union would have to determine whether or not they would withdraw those

three demands because they were, in his opinion, illegal; he expressed a willingness to arbitrate these items.

Q. Who expressed it? A. Mr. Hanson.

Q. Gò ahead, sir. A. Mr. Lyon said "No, the Union feels these demands, these three demands are legal; you say they are illegal; we would not have proposed them had we though they were illegal; we will not withdraw these demands."

Mr. Hanson said that the Company was unwilling to enter into a contract which would be in violation of the Taft-Hartley Law.

Following this, there was a short caucus, which the Union

[61] requested.

They then returned to the conference room.

Mr. Lyon said that this matter had been placed in his hands by the Local Union; that because of differences of opinion regarding legalities of certain questions, because the Union was dissatisfied with wages paid and hours worked, "We say good day and goodbye."

Q. And the strike followed the next day? A. The strike

followed on November 29.

Q. Now, the last wage increase by the Employer had been given in February, 1957, had it not? A. Yes, with

the proted notice, February 9.

Q. Do you recall what the Union had asked for, or, rather, you testified, I believe, that the Union had reduced its demand to \$4.00 and \$4.00 in the February meeting, and the Employer granted it, was that correct? A. That was the discussion at the February 8 meeting, that's right.

Q. Did the Union make any new wage demand in November of '57? A. In November of '57? No, no new one.

Q. Did it make the same one that it had hitherto? A. They were still negotiating from their proposal of August, 56.

Q. That was the position it took? A. Yes.

[62] Q. What was the weekly wage that the Employer had granted to the Union back in February of '57? A. In the posted notice?

Q. Yes. A. The first year was \$107.00 on the day side,

and \$111.00 on the night side for 37 and a half hours.

Q. Second year? A. The second year it was increased \$4.00 to \$111.00 on the day side, and \$115.00 on the night side.

Q. Now, who was president of the Local Union at that time, Mr. Steele? A. At what time?

Q. In November of '57! A. Mr. Joseph Mahoney was.

Q. Now, at about this time, did you have any meeting with Mr. Mahoney and any conversation about the matters discussed in the bargaining meetings? A. The only one I/can recall, it had to do—

Q. When? I'm speaking of time now. A. I would say

early in November of 1957.

Q. Where was that meeting? A. In my office.

Q. Who was present? A. Just Mr. Mahoney and myself.

Q. Tell-us what was said, please.

[63] I told him that I felt that this question of new processes in the composing room was one that had been overemphasized as far as the Union worry about it was concerned, that our company had a long record of treating our employees well, and that we were certainly going to continue along that line, that new processes and new machinery were part of the printing industry, the same as they are in many other industries; and that if there was any fear among the men that these new processes would be employed to displace them from their jobs, I told Mr. Mahoney that I hoped he would convey to them the assurance of the Company that that was not the purpose, that rather, the purpose was, of course to employ the newest techniques and

machinery; but that as far as displacing present situation holders in the composing room was concerned, that would not be done; if it meant a reduction of the force in the room, it would be done, if new processes were used, by attrition; I use the term attrition, meaning it would be done [64] by when men were transferred, or deceased, or retired; and that, I said, that ten years from today it might well be that we have 10 or 15 or 20 lesser situations than we have at the present time, but certainly it wasn't going to mean letting off of people through new processes.

Q. Did the Company at that time contemplate any introduction of new processes? A. At that time we were using one process, the use of tape in the teletype tape.

- Q. You described that already. Any others? A. No. We were thinking, and I told Mr. Mahoney, it may have been at this same meeting, that we were contemplating the use of a perforator for which we'd use for hole punching, and that we had a machine in the plant, and that if any of his men cared to use it and practice on it, I had no objection to it.
- [70] Q. (By Mr. Kowal) Did you have any further meeting with Mr. Mahoney in February, Mr. Steele? A. 1958?
  - Q. Yes. [71] A. Yes. Mr. Mahoney requested—
  - Q. When was that, do you know ! A. February 8, 1958.
    - Q. All right, sir, go ahead, A. Excuse me, February 4.
    - Q. Where was the meeting? A. In my office.
- Q. Who was present? A. Mr. Mahoney and Mr. De-Lorme, and Mr. Bowditch, and myself.
- Q. Tell us what was said. A. Mr. Mahoney asked if there was any way that this matter could be resolved locally. My question to him was, "Under what authority are you now speaking? "At the last meeting Mr. Lyon told the Company that this matter had been placed in his hands. What can we accomplish by this discussion?" Mr. Mahoney

asked if there was any way, any hope of talking locally if the I.T.U. released the Local Union. I said that it seemed impractical because three years ago we went through all the way through many sessions negotiating a contract only to have the I.T.U. reject it, throw it out because of certain defects.

The Company had told the Local Union that in the event of a strike the Company would file charges through the National Labor Relations Board, and go through the machinery provided for settling of this type, not for settling, but for handling [72] this type of a dispute.

Mr. Mahoney asked if the Company was committed to go through with the National Labor Relations Board proceedings; and we said yes, this was an orderly procedure, and the Union called the strike, and the Company took the action which it said it would; the Company had taken steps which were irrevokable in filling the jobs in the composing room, and that we were going through with the National Labor Relations Board proceeding.

Mr. Mahoney asked if the Company would listen to any further ideas the Union might have; and I said that the Company is always willing to listen; and that if we had any ideas, we would communicate them to him. He thanked me for the time, and left.

Q. Was there any mention in this conversation of clearance at all? A. Yes. In connection with my asking Mr. Mahoney about his authority to discuss this matter, he said that he was in my office with the knowledge of the National, the International, but that if any means of working this out could be arrived at, it would have to first have clearances with the International Typographical Union.

Q. Was that the last meetin, you ever had with any representative of the Union in this situation? A. Yes, sir.

[78] Trial Examiner: All right, then, in view of the stipu-

lation of the parties, the record in the 10(k) hearing, Case No. 1 CD-49 may be incorporated into this record by reference.

## Cross Examination

XQ. (By Mr. Segal) Mr. Steele, the last meeting you had prior to the strike was, I think you told me, November 27, is that correct? A. That's correct.

XQ. That meeting was a meeting whereby the Union had, the day before, gone out at Mr. Hanson's suggestion to review the Company's proposal, is that correct? A. Yes.

XQ. And they came in at the meeting of the 27th ready to talk about those proposals, is that right? A. Yes, that's right.

XQ. And, in fact, they did discuss the proposal in detail on the 27th, did they not? A. They discussed them briefly.

XQ. All right, then, they discussed them briefly, and went right down the line in terms of what seemed to be in agreement and disagreement between the Company and the Union? [79] A. That's right, Mr. Hanson, rather, Mr. Mahoney did that.

XQ. Now, you have that General Counsel Exhibit No. 2 in front of you, do you? A. No, I don't?

XQ. Would you be kind enough to have it.

Trial Examiner: He has it.

XQ. (By Mr. Segal) Now, looking at General Counsel's Exhibit No. 2, can you tell me, whether you were in agree?

ment to some of the following items that are included there.

First, was a proposed by the Union in Article II, let me start there. Were you in agreement on wages as outlined on Section 5 of the Union proposal, this is on Page 5, in Article 2! A. No, we were not.

XQ. You were not in agreement on wages? A. No.

No. 2: Were you in agreement on hours, which is

Section 1 of Article 2? The Union proposed hours. A. No, we were not.

XQ. You were apart on hours.

You were apart on overtime, were you not? That was part of Article 2, Section 1. A. What section is that?

XQ. Well, first it would be the hours section in Article 2, and then Section 4 thereof. [80] A. We were not in agreement on hours.

XQ. Or overtime, is my question now. A. Where is that overtime section, what number is it?

XQ. On Article 2, Section 4, first. A. That isn't the overtime provision, is it?

XQ. Article 4, Section 1. A. Yes, that's it.

XQ. That's the overtime, representing back to the hours in Article 2, were you together on that? A. No.

XQ. Then, there were other important economic issues, such as vacations and holidays, were you together on those? That's Section 6 of Article 4. Holidays first.

Mr. Kowal: I do want to object to the use of the word "important" to this particular—

Mr. Segal: I'll rephrase it.

XQ. (By Mr. Segal) You were apart on other economic issues, such as holidays, Section 6 of Article 4, is that correct! A. Yes.

XQ. And, in fact, you were apart on election day, whereby, the Union, in Section 19 of Article 4 had requested that they have sufficient time off on election day to allow them to go to the polling place to cast their vote, the Company had not agreed to that, had they? A. That's correct. [81] XQ. Correct that they had not agreed, is that right? A. That's correct.

XQ. And you were apart, am I correct, on Section 14 of Article 4, of the hospitalization, insurance, and sick leave, you were apart on, am I correct? A. Correct.

. XQ. 15, Section 15 of Article 4, the severance pay, which

the Union had requested the Company had not granted. A. No agreement, right.

XQ. And that's true on 16, which deals with severance pay and reduction of force, is that correct, no agreement?

A. Right.

XQ. And in 17, where the Union had proposed a pension plan the Company had not agreed to any pension plan, is that correct? A. That's correct.

XQ. And we'll turn a minute to Article 5 on Page 12, where the Union was asking for the old contract terms, such as Section 1, if there are any changes that were made in the Taft-Hartley Law, those changes would be incorporated,—A: Article 5?

XQ. Were you agreed on that? A. I'm not with you, sir.

XQ. Excuse me. Page 12, Article 5, Section 1, which was in the old contract; the Union wanted to renew again, calling for changes that might come about as a result of Taft-Hartley, [82] you didn't agree to that, did you? A. Lean't recall that specifically.

XQ. Did you agree to Section 2 of Article 5, which was the old contract proposal, language, the old contract language? A. No, I don't believe we did.

XQ. Did you agree with Section 3 of Article 5? A. No.

, XQ. You didn't agree with that, either.

Now, let me just take a minute on some other places very quickly.

Were you in agreement on the "lobster shift," which is found in Section 4 on the top of Page 5? 'A. I don't believe there was any agreement on it, no.

XQ. Now, these are some of the clauses that Mr. Mabeney on the day of November 27 went over with you and your committee, pointing out where there were areas of disagreement, did he not? A. On November 27!

XQ. The final meeting day prior to the strike, as I under-

stand it. A. As. I recall that, Mr. Mahoney looked over

the Company counter-proposal.

XQ. And pointed out the Company was not in agreement on these, some of these areas that I have just pointed out to you. A. That is my recollection of it.

[83] Q. Well, is the answer to that yes or no? A. Yes:

but the Union could not accept the Company proposal.

XQ. And he pointed, where there was a difference of opinion, as far as these various items that I have just listed, is that correct? A. Yes, that's correct.

XQ. And others as well, am I right? I haven't listed them all. Is that right? A. I couldn't answer that defi-

nitely as to others.

XQ. Will you take a look at General Counsel Exhibit 2 and tell us whether you were in agreement on all the other items, is that what you're implying? A. Would you care to specify what you mean by that?

XQ. All right, if you insist.

Let's start on Page 1, Mr. Steele.

Do I understand you were in agreement on the preamble?

A. I would have to refer to my detailed notes of these meetings in order to testify directly on that.

XQ. I thought you had those right there! A. The Com-

pany position was expressed in its counter-proposal.

XQ. Let me understand what you are now saying, Mr. Steele.

Are you telling me you were not in agreement on the preamble, or you were! I don't understand. Were you or weren't you in agreement on the preamble? [84] A. I can't honestly say; I don't recall that.

Mr. Hanson: May I observe, Mr. Examiner, the counterproposal which he just referred shows definitely they were

not in agreement even on the preamble.

Mr. Segal: I would be very happy to have Mr. Hanson testify when the time comes.

Mr. Hanson: When the exhibits speak for themselves, Your Honor, there's no need of any testimony on that.

Trial Examiner: It strikes me, in order to save time here, you have gone through a number of items here as to whether or not there was any agreement. Why don't you find out if there was agreement on any!

Mr. Segal: I tried to short cut, Mr. Hilton.

Trial Examiner: I didn't mean to put it in that form, I'm not trying to comment on that in any way; but it strikes me that if the witness can tell us the provisions or terms in which they were in agreement, you might be able to save some time and cut through this.

- XQ. (By Mr. Segal) Mr. Steele, will you be kind enough to tell us which terms, if any, the Company was in agreement with the Union? A. Well, that would require a comparison of the Company counter-proposal with the Union's proposal. I can't specifically say just which, on which detailed items we were in agreement. We were substantially not in agreement in most [85] items.
- XQ. Then, it's a fair statement to say that you were in substantial disagreement on most items, is that right! A. I would say so, yes.
- XQ. And you can't tell us now which items you were specifically apart on, except the ones we have just at least gone over? A. That's right.
- XQ. Now, I think you told Mr. Kowal on direct examination that there were a number of meetings in 1956. A. There were.
- XQ. Did I hear you say correctly the Company didn't change its position in those meetings in 1956, is that right?
  A. Yes, that's right.
- XQ. Then, in 1957, there were additional meetings. Did the Company change its position in '57! A. In 1957, yes.
  - XQ. Will you specify in what areas the Company

changed its position in '57? A. Well, for one thing, in the counter-proposal on jurisdiction.

.XQ. So that we have a counter-proposal on jurisdiction,

and you're referring to it? A. January 7, '57.

[86] XQ. (By Mr. Segal) So that the Company on that, by General Counsel Exhibit No. 4, you say, was willing to now change its position on jurisdiction, is that right! A. Yes, in attempting to settle this thing.

XQ. And in any other respects did they change their position in 1957! A. In the January 30 meeting, as I previously testified, the Company expressed, through Mr. Hanson, a willingness to start at scratch and counterpropose an entire new contract.

[87] XQ. January 10, I understood you to say, Mr. Steele, they gave their counterproposal, right?

[88] The Witness: On Jurisdiction.

XQ. (By Mr. Segal) That was my understanding.

Now, you told us on January 30 they now came in with changes of some kind or other, and I'm asking you to tell us what changes, if any. A. It does not represent any change in the Company's position; it's merely its expression of it reduced to writing.

XQ. So then it wasn't quite accurate if I heard that they made changes in their position. Actually, it was just putting their position in writing at that time, is that correct?

A. On this date!

XQ. Yes. A. That's right.

XQ. So that the General Counsel Exhibit No. 5, which was this proposed contract or counterproposal, or what have you, by the Company was purely, as I understand it from you now, putting in writing the Company's original position, except as it might have been modified by the Janu-

ary 7 counterproposal. A. That represented the Company's position as of January 30.

XQ. And was not a change in their previous position, that's what I'm trying to find out. A. To the best of my knowledge, it is not.

XQ. And subsequent to this date, do I understand that there was again no change in the Company's position? A. Subsequent to January 30?

[89] XQ. Right. A. Yes, that's correct.

XQ. So there were no further changes after that, either, was there? A. No, I don't—. In the February 8 meeting, after the Union had rejected the Company counterproposal, Mr. Hanson then said that we would be willing to prepare a posted notice.

XQ. Now, posting of the notice by the Company was not a change in their position relative to their position on the various items that they had embodied in this written proposal, or General Counsel No. 5; was it! It was just another method of embodying that, was it, or was it something else! A. The posted notice contained the scale increase.

XQ. Scaled increase that was in this document, or not? A. No, that document provided for an increase of \$4.00 and \$3.00, as I recall it; and the posted notice was for 4 and 4.

XQ. Apart from that, did the posted notice contain any other changes that were not in here, when I say here, I mean General Counsel No. 5? A. The posted notice provided for funeral leave, an extra slide day on holiday, the jury pay, the use of the joint standing committee for handling of differences, and so on.

XQ. And these were new things that were not in here, is that right? A. Some of them were in there, I'm sure.

[90] XQ. But with regard to the other items, then, let me just eliminate for the minute the few items that you have mentioned relative to the posted notice, was the Company's

position after the date when this was proposed identical with its position as it was by this document called General Counsel's No. 5? A. Yes, it was.

XQ. So there wasn't any change after that? A. No.

XQ. Now, there was a posting of notice, I think you just started to tell us, sometime in February, 1957, is that correct? A. That's correct.

XQ. This was put up on the board of the Company, was

it! A. Yes, sir.

XQ. It wasn't the first time the Company had posted notices relative to wages, hours, or working conditions, was it? A. I believe it was the first time one had been posted. In 1955, on June 6, we had sent a notice to employees with a scale increase at that time over a two-year period; but as I recall it, that was included in the pay envelopes.

XQ. That notice of June 6, 55, was a notice that was put in each man's individual pay envelope and said that the wages were increased, or something to that effect? A.

That's correct.

[91] XQ. That was a unilateral notification to the employees, is that correct? A. Yes, it was.

[92] XQ. Mr. Steele, did you realize that the proposals that the Company was making were changes in the clauses that existed in the old contract when you prepared that? A. Yes.

XQ. You realize that some of the things that the Union had had in the previous contract you were asking to be taken out of the new agreement, is that correct? A. Yes, that's correct.

XQ. For instance, Article 1, Section 7 in the old agreement provided for general laws of the International Typographical Union in effect January 1, '53, not in conflict with state or Federal law shall govern relations between the parties on those subjects concerning which no provision is made in this contract. That was a year-old contract, right?

XQ. And you wanted that out, is that correct? A. That's correct.

XQ. That's one of your new proposals.

And during the discussion, on that question, did somebody point out to you the fact that this provided that this only applied in the laws if the laws were not in conflict with state [93] or Federal law? A. Yes, I think so.

XQ. As a matter of fact, wasn't that pointed out to you by Mr. LeMothe, Mr. Lyon, Mr. Mahoney on several occasions? A. I don't recall, it could have been.

XQ. And during the discussion of the I.T.U. laws, did the Union representatives point out to you that there was a provision in the general laws to the effect that any law that was in conflict with the public law would be superceded by public law, specifically Article 14 on Page 100 of the general laws? You recall someone pointing that out to you? A. I believe Mr. Lyon pointed that out, yes.

XQ: And that section reads, for the record, how Mr. Steele? A. "In circumstances in which the enforcement or observance of provisions of the general laws would be contrary to public law, they are suspended so long as such public law remains in effect."

XQ. That was pointed out to you by Mr. Lyon? A. As I recall, it was, yes.

Trial Examiner: I think the record should show that you were reading from General Counsel's Exhibit No. 15.

XQ. (By Mr. Segal) Page 100, Article 14 of General Counsel's Exhibit No. 15, that correct? A. Yes, that's correct.

November 27, you told us that Mr. Lyon said that as far as the Union was concerned, their proposals were legal, they

would not have proposed them if they were illegal, you recall that! A. Yes, sir, I do.

XQ. He also pointed out that day, I think you told us, that the Union was dissatisfied with wages, hours, and other working conditions, and, therefore, good-day, is that correct? A. That was substantially it, yes, sir, plus the question of differences of opinion regarding legalities.

[95] XQ. (By Mr. Segal) The question was, did Mr. Hanson say to the Union that he was going to the National Labor Relations Board against this Union? A. In the event of a strike, yes.

XQ. Now, Mr. Steele, as I understand it, one stage of the negotiations, you objected to the I.T.U. laws on the ground [96] that many provisions were illegal, is that correct?

A. That is correct.

[97] XQ. (By Mr. Segal) First, did you point to any specific laws and tell the Union that in your opinion they were illegal as being closed shop? A. I did not personally.

[90] XQ. (By Mr. Segal) Now, Mr. Steele, do I understand that the Company was willing to negotiate a contract provided the Union withdrew its proposals on jurisdiction, foremen, and I.T.U. laws, is that right! [100] A. The Company was willing to sign an agreement that was reached on all matters, not merely based on those three items or withdrawal of them.

XQ. In other words, the Company did not ask to have those three withdrawn, do I understand that! A. Mr. Hanson said that the Union must consider whether or not, whether they shall withdraw these three items.

XQ. Did the Company say that these three items must be withdrawn before we can negotiate these others? Didn't they say that along the way? A. Not to my knowledge. XQ. Were they willing to negotiate the first three items?

A. The first three items?

XQ. Yes; namely, I.T.U. laws,- A. Yes.

- NQ. The foreman? A. They were willing to negotiate them to this extent; on Union laws, they were willing to negotiate them individually; as far as the Union foreman is concerned, they were willing to agree that a foreman could be a member of the Union, but that it could not be required by contract that he must be a member of the Union; and certainly, the Company was willing the negotiate a jurisdiction clause.
- XQ. So that as of November 29, when the Union went on strike, Mr. Steele, is it correct to say that the major economic issues, [101] such as wages, hours, overtime; pensions, severance, election day, and the various other items that we discussed earlier, were not in agreement between the Company and the Union?

Mr. Kowal: Objection. I do object to the use of the word "major." I think we should get at the facts without the introduction of these loaded phrases.

Mr. Segal: Strike the word "major."

XQ. (By Mr. Segal) The economic issues such as wages, hours, overtime, holidays, severance pay, pensions, sick pay, were not in agreement between the Union and the Company? A. Right.

XQ. And that matter was made clear to you by Mr. Mahoney on November 27, was it! A. Yes.

NQ. And also by Mr. Lyon on that day? A. That's right.

[108] XQ. (By Mr. Segal) Was priority brought out at the negotiation meetings, Mr. Steele! A. No violation of priority was.

NQ. But priority was discussed! A. Yes.

XQ. And did the Company make any statement about

what priority they were putting into effect, if any? A. Mr. Hanson said that the Company would continue to observe priority practices as they had been.

[109] XQ. (By Mr. Segal) Was the Swenson matter known to the people during the strike? A. To what people?

XQ. To the Union people. A. As a matter of fact, this is the first time I've heard of the Swenson case.

XQ. You never heard of the Swenson case before?

XQ. Then, we will not pursue it with you.

XQ. (By Mr. Van Arkel) Mr. Steele, as I understand your testimony, in the course of these negotiations, objection was made on legal grounds to 3 of the Union proposals, the Union foreman, Union laws, and Jurisdiction, is that correct? A. Yes, sir.

XQ. Were those the only ones! A. On legal grounds!

XQ. Yes. A. To the best of my knowledge, yes.

XQ. Specifically, at any time in the course of these negotiations, was any objection made on legal grounds to Article 1, Section 2 of the proposed agreement providing that all composing room work shall be performed only by journeymen and apprentices, and so forth? You have a copy of General Counsel's Exhibit 2 there, Mr. Steele? A. Yes. Article 1, Section 2?

XQ. Section 2. A. Yes, Mr. Hanson objected to that.

. XQ. Well, then, there was objection on legal grounds to other [111] than the three clauses you described, is that right? A. Yes, I guess that is right.

XQ. And did Mr. Hanson make any statement as to why that clause was illegal? A. Yes, because it was necessary for a journeyman to be a member of the I.T.U.

XQ. Where does it say that? A, In the general laws.

XQ. (By Mr. Van Arkel) Well, do I properly infer from your answer, then, that there is nothing in the language of Article 1, Section 2 which would require any such thing?

Trial Examiner: Overruled; he may answer.

The Witness: Well, the answer to that is that the general laws provide the journeymen shall be members of the I.T.U., and [112] the section says "All composing room work must be performed only by journeymen and apprentices."

XQ. (By Mr. Van Arkel) Well, leaving the first part of the question for the moment, Mr. Steele, did Mr. Hanson say that it was illegal for a contract to provide that composing room work should be performed only by journeymen and apprentices? A. As he defined it here, yes, as he saw this—

XQ. Well,— A. -provision.

XQ. How about Article 1, Section 5, on Page 2, what was said on the subject of Article 5, Section 2, I mean, Article 1, Section 5? A. Mr. Hanson objected to the requirement that the foremen shall be a member of the Union.

XQ. Was that the only thing he objected to? A. No.

XQ. Hm? A. No.

XQ. What else did he say? A. Also, that members holding situations employ competent substitutes without consultation or approval of foremen.

XQ. Did Mr. Hanson object to that on legal grounds? A. He did.

XQ. How about the rest of the language? A. He objected to the provision that the Union shall not [113] discipline the foreman for carrying out written instructions of the publisher on the basis that it wasn't necessary that every instruction from the publisher be written.

XQ. Did he say that that was illegal to propose that?

A. Not illegal.

XQ. Hmm? A. Not illegal, no.

XQ. All right. Anything further? A. I believe he objected to the provision that if a foreman performs any duties of a journeyman, then he shall be classified as a working foreman.

XQ. Did he claim that that was unlawful? A. No.

XQ. Well, now, to return, for a moment, to Article 1, Section 2, at any time was attention called to the language of Article 1, Section 6 of this contract defining journeymen!

A. His position on that Section 6 was pressed in the Company's counterproposal with reference to the training and selection of apprentices.

XQ. Was there any discussion at all of Section 6 of Article 1 in the course of the negotiations? A. Yes, I believe

there was.

XQ. And could you tell us what, if anything, was said about that? A. The Company reserved the right to pick its own apprentices.

[114] XQ. Did Mr. Hanson insist that that was some-

thing that was required by law? A. He did not.

XQ. At any time was there any discussion of the language in Section 6 of Article 1, providing, "Persons seeking to qualify as journeymen shall be given an examination under non-discriminatory standards and procedures established by the parties hereto or the Joint Standing Committee by impartial examiners qualified to judge journeyman competency selected by the parties hereto"! A. The only discussion I recall was Mr. Hanson said that the publisher reserves the right to pass on the competency of apprentice applicants, and was not willing to have that on a joint

basis.

XQ. And you say that was not on legal grounds, that was

just something the publisher wanted, is that right! A. As I recall it, yes.

XQ. Did the Union at any time point out that the provisions of Section 6 of Article 1 were designed to assure that employment would be on a non-discriminatory basis?

A. Yes, they did.

XQ. And did they say that, did they point out to you that the provisions of this contract would override any provisions of the general laws! A. I don't recall that specifically.

[115] XQ. Well, the Union proposal did propose to continue, did it not, the language of the first paragraph of Section 7 of Article 1, namely, that this contract alone shall govern relations between the parties on all subjects concerning which any provisions made in this contract? A. They proposed the continuance of that first paragraph, that's right.

XQ. And did they point out to you at any time that the effects of that paragraph in the proposal would be that the provisions of Section 6 of Article 1, dealing with a non-discriminatory method of hire, would prevail over the general laws of the Union? A. I can't recall that they specifically applied the interpretation of their general laws to Section 6.

XQ. Did you have an understanding on that subject?

A. I don't understand you.

XQ. Well, I mean, in the course of these negotiations, did you understand that the provisions of the contract would override any provisions of the general laws? A. The Union asserted that; I think that was a question that hadn't been resolved, actually.

XQ. Well, specifically, did they point to the language of the first paragraph of Section 7 of Article 1? A. They referred to it several times, yes.

NQ. And from that, did they argue that if the general

laws [116] contained any language which called for closed shop it would be superceded by the contract language of Section 6 of Article 1? A. I don't recall that.

XQ. Did you discuss that among yourselves at all! That is, with Mr. Hanson or any of your co-negotiators! A.

Discuss what!

XQ. The question whether or not the provisions of the contract would not override any provisions of the general laws which might be construed to require closed shop conditions? A. Why, yes.

XQ. You did discuss that? A. Yes.

XQ. Did you arrive at a conclusion on the matter? A. We arrived at a conclusion that by agreeing to the general laws in toto that where a Union shop was provided for, we would be bound by the provisions of the general laws.

XQ. Despite the language of Section 6, Article 1, is that

correct? A. That's right.

XQ. So that, I take it, the upshot of this was that the Union presented to you in some detail the reasons why the proposal which they were making did not require you to agree to a closed shop agreement, is that correct? A. There was a great deal of discussion about that, yes.

[117] XQ. And the Union consistently took the position in presenting this proposal they were not asking you to agree to anything unlawful? A. That's their position, yes; they said if it was illegal, they wouldn't have proposed it.

XQ. And I take it you and Mr. Hanson and others dis-

agreed with that view? A. Yes, sir.

XQ. Now, I'd like to call your attention to Section 11 of Article 4; Lbelieve it's on Page 10 of the proposal.

Would you tell us what, if any, discussion, there was about Section 11 of Article 4? A. Well,—

XQ. Specifically, Mr. Steele, let me direct your attention to the first sentence of that section: "When it becomes nec-

plished by laying off first the person or persons last employed, either as regular employees or as extra employees, as the exgiencies of the matter may require."

Did Mr. Hanson or anyone object to that clause that that clause was unlawful? A. I don't recall his objecting to it on a legal basis.

XQ. As a matter of fact, that's just one application of the priority law? A. I would say so.

[118] XQ. And you would agree that you would continue the priority system that you had in effect? A. That's right.

- NQ. So I take it from that that at no time was any objection in the course of these negotiations made that the priority proposals of the Union were unlawful, is that right? A. That is right.
- XQ. Now, to go to the second sentence: "Should there be an increase in the force, the persons displaced through such cause shall be reinstated in reverse order in which they were laid off before other help may be employed." Was there any objection to that? A. I recall none.
- NQ. Again, that's an application of the priority rule.
- XQ. Now, "Persons considered capable as substitutes by foreman shall be deemed competent to fill regular situations," was there objection to that? A. I don't believe there was to that specific clause, section.
- NQ. In any event, it's true in the newspaper business, is it not. Mr. Steele, that in order to serve as a substitute, a must have journeyman competency?

Mr. Hanson: I object to that.

NQ. (By Mr. Van Arkel) Is it true at the Worcester Telegram, in order to establish his ability as a substitute, a journeyman [119] must establish his competency! A.

Mr. Hanson: I object to that.

Trial Examiner: Overruled; his answer may stand.

The Witness: -by this clause.

XQ. (By Mr. Van Arkel) But as a matter of practice, that's been true also, hasn't it? A. Up until the time of the strike.

XQ. The practice at your paper, I take it, had been that in the event a regular situation holder was absent, a substitute would fill in for him! A. Yes.

XQ. So that a substitute would have to have the skills and ability which a regular situation holder has?

Do you have the question! A. Yes. I'm thinking.

XQ. I'm sorry. A. The answer would be yes.

XQ. Now, to go on with the rest of this paragraph, "and the substitute oldest in continuous service shall have the right in the filling of the first vacancy." Was there objection to that? A. There was objection in general to the practice of a substitute being put on by a regular situation holder without being put on and passed on by the foreman. [120] XQ. Well now, I wonder if we're speaking of the same thing, Mr. Steele.

This particular language deals with the situation where a regular situational becomes vacant, does it not? A. Yes.

XQ. And who shall have the prior right in the filling of that vacancy? A. Persons considered capable as substitutes by the foreman shall be deemed competent to fill regular situations, and the substitute oldest in continuous service shall have the right in the filling of the first vacancy.

XQ. Now, I think you said there had been some objection voiced to the right of regular situation holders to put on substitutes, is that correct? A. Yes.

XQ. But that's not the problem that this section covers, is it! A. No, it is not; you're right.

XQ. So would you say there was no objection to the

language that you just read here! A. I can recall no objection to that.

XQ. How about the last sentence, "This section shall apply to incoming as well as outgoing foremen," was any objection expressed to that! A. Not to my knowledge.

[121] XQ. Now, if I may, I'd like to ask you to turn back to Article 1, Section 12, Mr. Steele, which I think you'll find on Page 4 of the contract.

Was any objection made to that section which would give employees a right not to cross a picket line? A. I can't recall any specific discussion of that section.

XQ. Well,— A. The notes may show an objection to it; I don't recall it as of now.

XQ. Is it your best memory that no objection to that on legal or other grounds was raised in the course of negotiations! A. I can't recall it.

XQ. Now, Article 1, Section 9, I believe you have already stated you don't recall any specific discussions about that. That deals with, well, that deals with Section 9 of Article 1. A. Yes.

XQ. Article 3, Section 7, dealing with apprentices subscribing to and completing the I.T.U. Course of Lessons in Printing, was there objection to that? A. Yes, there was.

XQ. And on what grounds! A. On the grounds that we felt that it shouldn't be required that apprentices by contract should subscribe for and complete the I.T.U. Course of Lessons.

XQ. Are you familiar with that course, Mr. Steele? [122] A. No, sir.

XQ. Have you ever seen any of the handbooks that are used in the course of that Course of Lessons in Printing?
A. I have not.

XQ. You know that these deal with all branches of the craft of printing?

Mr. Hanson: I object to the way that question is phrased.

Trial Examiner: Overruled. I mean, this is cross examination.

The Witness: I am not familiar with the lessons.

XQ. (By Mr. Van Arkel) Did you make any effort to familiarize yourself with these lessons before objecting to them? A. I did not.

XQ. Was it explained to all why it was illegal to require apprentices to follow certain studies? A. We felt that it was not within the authority of the Employer to require an apprentice to subscribe to and complete the "I.T.U. Course of Lessons."

XQ. Do you know whether any other course of lessons in printing is available or not? A. I don't know; I assume there is.

XQ. You made no effort to investigate that problem?

A. No, sir.

XQ. Did you observe the language of the clause that apprentices shall be advised to subscribe for and complete [123] the I.T.U. course? A. I did.

XQ. Hmm? A. Yes.

XQ. But I think you just used the language that you didn't think they should be required to, or did I hear you wrongly! A. Well, to advise them and to require them could be construed in different ways, I'll grant you that; but I think that our interpretation is to advise them to take it would indicate the Company would look with favor upon their subscribing to these lessons.

XQ. Well, was the Company against that? A. The Company position was against it as expressed in negotiations.

XQ. They were against apprentices faking and subscribing and completing this course of lessons? A. Being advised to, yes:

XQ. And you say that it was insisted that that was an unlawful requirement? A. No.

XQ. I'm sorry, I didn't hear your answer. A. No.

XQ. This was just something the Company didn't want to do, is that right? A. That's right.

[124] XQ. Now, Article 4, Section 5—sorry to be skipping around so, but that's because the Complaint in this case skips around so—Article 4, Section 5 of Page 8, can you tell us what the discussion on that was?

Perhaps we'd better break it up, Mr. Steele.

Do you recall whether there was any discussion about the first paragraph of that which says: "The publisher shall be permitted to operate his composing room six or seven days per week and as many shifts as may be desired to meet requirements under conditions set forth in this contract. The particular days constituting a situation shall be designated by the foreman," and so forth.

Was there any discussion of that at all? A. No, I don't recall any.

XQ. It wasn't discussed? A. Not to my knowledge.

No. And in any event, no objection to it voiced? A. No.

XQ. How about the next paragraph, that employees may claim new shifts, new starting times, new slide days and have choice of vacation schedule in accordance with their priority standing? A. I recall no objection to that.

XQ: As a matter of fact, that's simply another application of the priority system, is it not? A. Yes, it is.

[125] XQ. Which you have already testified you found

XQ. How about the next one: "In giving nights or days off, the foreman shall give preference to members oldest in priority standing," and the rest of the paragraph? A That again has to do with priority practices; there was no objection that I can recall to this.

NQ. How about the next paragraph: "It is further understood that this section shall not apply to extras em-

ployed because of paid vacations," and so forth? A. I

would say the same answer to that.

XQ. Well, now, would you turn to Article 4, Section 10, particularly the first sentence of it: "The foreman has the right to employ help and shall observe strict priority rights of substitutes in so doing? A. I recall no discussion of that.

[127] XQ. In the course of negotiations, did you or anyone else on behalf of the Employer express any objection to the first sentence of Section 10 or Article 4? A. I recall no such objection during negotiation.

XQ. Now, is the same true of the balance of Section 10? A. No, it isn't; where there is reference made to the "hereinbefore accepted International Typographical Union

Laws," there was no agreement there.

XQ. Would you read the rest of it and indicate if there was any other objection? A. I recall no other, no objections to the remainder of that in negotiations.

XQ. Well, now, we have already covered Article 4, Section 11, Mr. Steele, but since the Complaint has it in twice, I

suppose [128] we might as well put it in twice.

As I recall your testimony with respect to Section 11, it was that there was no objection to that on legal or other grounds because it was an application of the priority rule, is that correct! A. That's correct.

XQ. Well, now, because of the way this Complaint is set up, we'll have to jump back again, Mr. Steele, to Article 1, Section 5, dealing with the right of journeymen to employ substitutes.

XQ. Will you tell us what discussion there was about that?

A. Yes. The Company objection to that was based on the provision that members holding situations may employ com-

petent substitutes without consultation or approval of foremen.

- XQ. And what was the objection that was expressed to that? A. That the foremen should be given and have the authority to hire and fire.
- XQ. Was the statement made that this was an illegal requirement? A. I believe it was, yes.
- XQ. And on what grounds, do you recall! A. On the grounds that it would foster the continuance of the closed shap.
- XQ. Has it been true at the Worcester Telegram, Mr. Steele, that composing room employees are required to. cover their [129] situations? A. It had been.
- XQ. Will you describe what that phrase "cover a situation" means! A. If they were unable to report for work, they would, they were to put on a suitable competent substitute to cover their jobs.
- XQ. And this was an order so that the paper would have 'enough men available to publish its edition!

Mr. Hanson: I object to the phraseology, is that the reason for it.

Trial Examiner: Overruled. This witness is experienced in those matters; he can answer them.

The Witness: May I have the question again, please.

- NQ. (By Mr. Van Arkel) Was the reason for this obligation to cover a situation in order that the newspaper would be certain that there would be enough men present to get out its paper each day? A. That was one of the reasons that the Union would contend, yes.
- XQ. Well, did you agree with that reason? A. We had
- XQ. So that this right to hire a competent substitute is also a means by which a journeyman will be able to cover his situation in the event he was required or wished to be

absent from [130] his shift, is that right? A. That's correct.

XQ. Going to Article 4, Section 10, on Page 10, was there any [131] objection made to so much of that clause that states a discharged employee shall have the right to challenge the fairness of any reason for discharge. Demand for written reason for discharge shall be made within 72 hours after member is discharged? A. I recall no objection to that.

[136] XQ. (By Mr. Van Arkel) Mr. Steele, in your testimony yesterday you said that there had been some discussion in the course of negotiations about teletypesetters: A. Yes.

XQ. And I believe you stated that insofar as the running of the tape from the teletypesetters through linotype machines was concerned, that was not a matter about which there was any argument! A. To the extent that the company was willing to permit or concede to the union jurisdiction over the running of tape through the machines.

XQ. That you say the company was willing to concede?

A. Yes, with the provision, of course, that there be no limitation as to the amount or type of tape that was to go

through the machine.

XQ. So that the controversy with respect to that really revolved around the union's request that feature materials, for example not come in on teletypesetter type! [137] A. Yes, and that first came into negotiations when Mr. Lyon sat in with us in 1955 when he took a newspaper and showed what could be included; that is from the AP, UP, and so on as tape material. As I recall, he took a Gazette and took page one of it and marked up what if the tape was conceded if it was run through, what would go into the paper from the tape; and his point there was that what they

were trying to do, what the union was attempting to do was to preferve manual labor insofar as possible by limiting this to purely news material and not expanding it into the feature contents.

XQ. Well, just to clarify the record on this a little bit, the teletypesetter process of operation is one in which a machine is punched at a remote point; and then electric impulses transmit it over wire, activate a machine, which ents tape which can then be used on a linotype to set type. Is that a summary of the teletypesetter operations! A. On the wire service, that is right.

XQ. On the wird service.

So that, by sending from one central point, you can distribute news matter in form ready to feed into the linotype to several different points of destination, is that correct?

A. Yes, that is correct.

NQ. So that the union's request in this respect was limited [138] to the type of matter which might be received over the teletypesetter, is that correct! A. At that particular discussion, yes. Now, there was further discussion, again I can't tell you exactly when all this occurred, but during the course of these negotiations, there was further discussion to no conclusion as to the number of men who might be employed in tending as monitors these teletype machines. The union, I don't recall the numbers involved, but there was discussion back and forth as to the number of people who could efficiently man those machines.

NO. Now, did the management of the newspaper at any time take the view that this demand of the union was un-

NQ. Yes, or this request to limit the type material which might be brought in by teletypesetting? A. No.

AQ. That was something that management, as an economic matter, felt it should have the right to decide for itself? A. Yes, that is right.

XQ. Now, I believe you stated in your direct testimony, Mr. Steele, that at several times in the course of these negotiations the union negotiators took the position that they wanted an approvable contract? A. Yes.

XQ. And by approvable, you understood that to mean a contract [139] approved by the International Typographical Union as being in compliance with its laws and federal law? A. The statements that were made to us by the local people and then later by the international people was that these people are looking for a written contract, they want a written contract; in order for them to be willing to sign a written contract, it must be one approved by Indianapolis. That is the term that was used in general, approved by Indianapolis.

XQ. Are you familiar with the approval language that is usually contained on agreements negotiated by affiliated

local unions of the ITU?

Mr/ Hanson: I object. We have a proposal here. What they might have done some place else is irrelevant.

A. I am familiar with the language in the proposal.

NQ. Well, specifically, Mr. Steele, you had an agreement which expired on December 31, 1954, which is in evidence. Looking at the last paragraph of that agreement, it states that this agreement is approved as being in compliance with the laws of the International Typographical Union as limited by the Taft-Hartley Law and the undersigned, and so forth. Was it your understanding that it was the addition of that paragraph which made it an approved agreement! [140] A. No, that wasn't my understanding of it. My understanding of it was that in order to, and this came out from experience, in order to have an approved contract, regardless of that particular language, the procedure was that the local must clear with Indianapolis as to the language in that contract. And that is borne out by our experience

again in 1955 when we worked out what we thought was locally agreeable language on the jurisdiction clause and adjourned our meeting; and then Mr. LaMothe came back I believe the next day and said that he had been in touch with Indianapolis and that they had rejected the language due to certain defects in it. So that is our understanding of Indianapolis approval.

XQ. Does Mr. LaMothe at that time point out what those

defects were! A. Yes, he'did.

XQ. But in any event, I take it that the union negotiators made it clear to you that they were not only willing but anxious to arrive at an approvable agreement, is that true? A. Oh, yes, certainly.

XQ. Did you at any time have any doubts or reservations in your own mind that, if, for example, you had agreed to what the union was asking, that they would have been ready and willing to enter into a contract to that effect! A. No, I think that they were sincere in their negotiations, certainly.

[141] XQ. So that would it be accurate to summarize the course of these negotiations by saying that as to certain issues considered important by both parties, there was a disagreement as to the legality of those proposals? A. Yes.

NQ. And do you have any doubt that, if the union, for example, had agreed with your position, that those requests were illegal; that an agreement would have been arrived at? A. As far as we are concerned, we would have been very happy to have had a written agreement, yes, providing for, as Mr. Hanson had said, for wages, hours, and working conditions as contained in the company's counter proposal, based on what we thought or what our attorneys thought was a legal contract.

NO. Well now, to take the other side of that coin, Mr. Steele, do you have any question that, if you had agreed with the union's position that their demands were lawful,

that an agreement would have been arrived at! A. If we-

XQ. If you had accepted the union's position in the course of negotiations that all of the contract clauses were lawful which they were requesting, do you have any doubt that an agreement would have been arrived at?

[143] A. If we accepted the premise that all these demands were legal, do I have any doubt that an agreement would have been arrived at! I would answer that by saying that the company was willing and wanted a written and legal-contract. If in our opinion these demands had all been legal and we had had agreement on all other matters, economic, operating, and so on, I think we would have agreed to a contract.

XQ. (By Mr. Van Arkel) So I take it, Mr. Steele, it would be a fair summary, then, of your entire testimony to say that the union throughout these negotiations manifested a [144] desire and an intention of reaching as agreement if acceptable terms would be agreed upon, is that true? A. Yes, I think there is no question of that.

### Redirect Examination

Q. (By Mr. Kowal) In connection, Mr. Steele, with this question that, if you had accepted the union contract clause as legal, would you have arrived at a contract, what were the principal stumbling blocks to an agreement! A. The principal stumbling blocks as brought out particularly at the last negotiation session were the inclusion of the entire ITU general laws into it, the inclusion of a provision that the foreman must be a member of the union, and the insistence by the union that the company accept the jurisdiction language exactly as it was set forth in their proposal.

- Q. And am I mistaken in saying that in prior meetings that you had expressed a position or the company had expressed a position that, if these stumbling blocks could be gotten over, an agreement would easily be reached? A. Mr. Hanson said that, if these stumbling blocks [145] could be removed, that we would be well on our way in his opinion to a contract.
- Q. So that is there any doubt in your mind that you would have reached agreement with the union if these stumbing blocks were out of the way? A. No, sir.
- Q. Now, in these negotiations, did you discuss or state all your objections to the legality of the general laws? A. I believe Mr. Hanson went through them substantially, yes.
- Q. In the '56 negotiations when he wasn't present, did you state all your objections to the legality of the general laws? A. I did not.
- Q. Did you make any offer in that connection! As In connection with what, sir!
- Q. In connection with bargaining about the general laws and discussing them? A. In 1956?
- .Q. Yes. A. May I check my notes on that. I can't re-
- Q. Well, did you make any offer about bargaining about them individually? A. Yes.
  - Q. And was that refused? [146] A. It was.
- Q. Was there a connection between the legality of the general laws and the legality of the contract clauses that Mr. Van Arkel has been asking you about? A. Yes, there is, yes.
- Q. And I take it you did not state that you stated all your objections to the legality of the general laws, is that correct? A. Yes, sir.
  - Q. Do you have any knowledge, do you have any memory as to what the general law states as to the priority

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list in the union? A. Well, of course, the priority list is in the hands of the chapel chairman.

Q. Did you have an objection to that? A. We had an objection in general to any hiring practices [147] being taken over from the foreman.

[148] Q. (By Mr. Kowal) I show you what has been marked for identification as General Counsel Exhibit No. 16 and ask you whether or not that is the alleged agreement that you [149] reached with the local union in 1955 as to jurisdiction, or rather, Section 3 and 4 of the alleged agreement that you reached with the local union in 1955? A. Sections 3 and 4 are the ones that at the session, at the local session with Mr. LaMothe we felt we had arrived at language that was agreeable.

Q. And that agreement, I believe you testified, was submitted to Indianapolis? A. To the best of our knowl-

edge, Mr. LaMothe told us it was, yes.

Q. And Mr. LaMothe told you something about Section 4, is that correct, the new section 4? A. Yes, he, in the following session which took place on July 7, Mr. LaMothe told us that Section 4 had been rejected because it contained certain defects.

Q. Rejected by whom? A. By Indianapolis. The difference in opinion being that the new Section 4, the Indianapolis proposal should read, the party of the first part guarantees to the party of the second part full jurisdiction

as defined by the party of the second part.

Q. And who is the party of the second part? A. That would be the union, over any process, machinery, or equipment which may be used as an evolution of or substitute for any process, machinery, or equipment used on [150] the effective date of this agreement.

Q. Now, I believe that Mr. Segal asked you about the

changes in the company's position in 1957, I forget the precise dates that he used. Did Mr. Hanson in the meetings of November 26 and November 27 offer to arbitrate all issues! A. Yes, he did.

Q. Was that a change in the company's position? A. Yes, it was. At least, I don't believe it had ever been expressed prior to that.

Q. By the way, did the union ever change its position in 1957! [151] A. Not to the best of my knowledge. Again, the three items, the laws, the jurisdiction, and the union foreman were the stumbling blocks, and no, the union didn't change on that.

Q. Was there much discussion as to any other items in these negotiations? A. As a matter of fact, the major portion of the discussion revolved around these three items. The others were gone through rather rapidly.

# Recross . Examination

[152] XQ. Mr. Steele, the company posted some conditions of employment sometime in February? A. Yes.

XQ. Those were the same conditions that Mr. Hanson read off at the meeting of February 7 or 8, with some changes? A. Now, what happened at that February 8 meeting wasn't that he read off a list and said this is what, this is a set of conditions. He said that apparently we've reached an impasse, the company—

Mr. Hanson at that meeting said that the company position remains the same, that we were not willing to sign on laws and jurisdiction, we would okay TTS operation [153] for wire service with no restrictions, we were willing to give a non-introductory clause as far as new processes were concerned, and he offered to post a notice due to this impasse; and he said that even though he realized that this

was not negotiable, that the company was willing to discuss it in order to provide a means whereby the men would at least know what the company position was.

XQ. And he was—excuse me I'm sorry. A. Then he read the notice, and it was a discussion of it, he read a

notice. -

XQ. That is what I am getting at. At that meeting Mr. Hanson read a notice which was about three pages long, I believe? A. I don't remember how long it was.

XQ. There weren't enough copies to hand around of

that notice? A. I don't remember that either.

XQ. And he said, as you just indicated, that this was not negotiable, but he would discuss it? A. Yes, sir.

XQ. And he did discuss it in the sense, in which sense, Mr. Steele! A. He discussed it in the sense that, if there were any changes, that the union requested, to which the company agreed, maybe he'd be willing to change the notice, so then—

XQ. Excuse me, let's stop right there. He said, did he, that [154] the company would be willing to look at changes that the union might want to suggest? A. Well,

to discuss them right at the table.

XQ. Willing to discuss.

And Mr. LaMothe said that the wages were not sufficient, did he? A. Yes, he did, that's right.

XQ. And he offered a counter proposal of \$6 did he? A. He did, he asked for it.

XQ. And did the company give it? A. It did not.

XQ. (By Mr. Segal) And when that meeting finished, didmanagement give out at that meeting these changed conditions of employment? A. Not that that meeting, no. [155] XQ. They went out and then what? Posted at a subsequent time? A. Yes, I believe it was posted on the

Pfollowing day.

approach, and I am just taking it on from there. Do I understand the position from this July 1955 has changed or not by the company on jurisdiction? I am referring to General Counsel [157] Exhibit 16. A. Yes, it has changed because this Section 4 states that in the event of introduction of new processes of any new process or machinery for composing room work not being used in composing room work on December 31, 1954, the party of the first part guaranteees to the party of the second part full jurisdiction over any such new process. Now, the company in an attempt to arrive at an agreement and to close this thing up offered to, offered a clause not to introduce certain defined new processes during the term of the contract. Subsequent to this time—

XQ. You are now referring to the '57 negotiations? A. That's right.

XQ. So that the company's position has changed in the sense that it wanted to change the old contract or the old proposal, if you will, or the old agreement, that it had that you have identified as General Counsel 16? A. Well, the old agreement contained the non-introductory clause. We then in our first negotiations on that wished to withdraw that non-introductory clause; then through a series of negotiations, we were willing to change our position to this; and then following this July 6 language, we again were willing to change back to a non-introductory basis.

XQ. Which was the old contract of '54? [158], A.

That is what it really amounted to.

Mr. Kowal: Can the record show that this was General Counsel Exhibit 16.

Trial Examiner: That is correct.

NQ. (By Mr. Segal) The union on the other hand had

changed its position from '54 by wanting to change the old contract clause, is that right! A. Yes.

XQ. And according to you, they had gone to the clause that is now in Section 4 of General Counsel 16 in 1955, is that right? A. That was the proposal of that date from the union, that is right.

XQ. Then later they changed to the position of the proposal that you have in front of you in General Counsel No. 2, I think it is, which is the long proposal of 1956 and

7, is that right! A. That is correct.

XQ. And then Mr. LaMothe in turn explained the position on the tape machine after some discussion with the company of that particular problem, is that correct? A. Well, the specific memory I have as far as tape is concerned is with Mr. Lyon rather than Mr. LaMathe.

XQ. I meant Mr. Lyon, I'm sorry. [159] A. Yes, Mr.

Lyon.

XQ. And he explained what the position of the union was and what they were willing to do relative to that problem as the company and the union discussed it. A. Yes, sir.

XQ. (By Mr. Van Arkel) Mr. Steele, the contract which expired on December 31, 1954, did provide that the foreman should be a member of the union, did it not? A. Yes, it did.

XQ. And that contract also provided for the recognition of the general laws of the ITU in effect January 1, 1958, not in conflict with state or federal law? A. It did.

XQ. Now, in the course of negotiations, was any reason advanced why proposals which had been contained in a contract expiring December 31, 1954, had in the meantime [160] become undustries A. Probably because we became more educated to these.

XQ. What? We as there any discussion on that subject matter at all! Hid anybody say, well, if this was all right in 1954, why is it illegal in 1956? •A. The discussion that I recall with reference as to why we took the laws in 54 or 53 and now was that first of all there had been many changes in the laws since that time which were adopted in your union convention, at which the employer has no participation, and that—

XQ. Were any specific laws discussed?

Mr. Hanson: Let him finish the answer, please.

Trial Examiner: All right. Go ahead.

A. No specific ones were discussed in negotiations, to my knowledge, as far as the changes from that time until now.

XQ. Well, would you continue, I'm sorry I interrupted you. I would like to have you continue, finish your answer.

One item, the inight have been some changes, but there was no discussion about any specific ones? A. That is right. Then, the discussion, the principal discussion regarding the laws themselves, and the details of them occurred in the last two meeetings which Mr. Hanson attended and which were, in which he explained in detail the sections and so on to which we objected on a legal basis.

XQ. Had Mr. Hanson participated at all in the negotiations [161] which led to this agreement which was effective beginning January 1, 1953? A. No, sir.

XQ. In those negotiations, did anyone at any time raise any question of the legality of any of the contract proposals which the union put forth? A. I recall none.

[162] Mr. Kowal: What I have in mind is that in '53 there are clauses similar to those objected to by the company beginning '56 through '57 that the company agreed to then. There is doubt about that.

Trial Examiner: I don't think there is any question about that.

Mr. Kowal: And we are willing to concede that. Therefore, it follows quite obviously that the company changed

its mind. So what? Doesn't it have a right to? [163] Does it matter why?

Trial Examiner: Well, I think counsel would have the right to ask why or what reasons were advanced by the company at subsequent meetings.

Mr. Kowal: Yes, I agree.

[164] XQ. Well, suppose I rephrase it. The fact of the matter is that the only thing that changed between the negotiations that you had for the contract which was effective January 1, 1953, and the negotiations which took place in 1956 and 57 was that Mr. Hanson entered the negotiations, isn't that correct! A. Mr. Hanson entered the negotiations in 1957.

XQ. '57! A. Yes.

XQ. And that was the first time that questions were raised about the legality of these various proposals?

A. I believe the question of legality was raised before Mr. Hanson came in, Mr. Van Arkel, by Mr. Phillips.

XQ. By Mr. Phillips! A. Yes.

XQ. On these three points that you have mentioned! [165] A. Yes.

Trial Examiner: Just a moment. 7

Mr. Steele, you have stated that the contract, General Counsel Exhibit 2, the old contract, it shows that the 1953 agreement expired December 31, 1954. What was the relationship between the company and the legal from that point forward? Was there any written agreement, was there a verbal agreement, or just what was it?

The Witness: No, I think there was a gentlemen's agreement that conditions as contained in the last written contract would obtain until such time as we were able to either agree or disagree on a new written contract. Trial Examiner: And then in 1955 you did notify the employees of wage increases by notice in their envelopes, is that correct?

The Witness: Yes.

WILLIAM B. PARRY a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

## [167] Direct Examination

- Q. (By Mr. Kowal) What is your occupation, Mr. Parry?
  A. Associate manager, New England Daily Newspaper
  Association.
- Q. And New England Daily Newspaper Association is what? A. It is an association of newspapers, daily newspapers, in New England.
- Q. And does this association represent newspaper publishers in negotiations and things of that kind? A. We do.
- Q. And do you represent the association in those negotiations or appear for the association? A. I represent various publishers through the association offices. Actually I act as ageent for publishers in negotiations.
- Q. I understand you come on the scene only when the international peeople come on the scene generally, is that true! A. As a general rule, when the international representatives [168] or international officers appear to negotiate for the union, the publishers call in either Mr. Phillips or myself or both of us.
- Q. So that I take it over the year that you, and shall we say your opposite number, the national representatives have met frequently, is that so? A. That is true.
- [169] Q. (By Mr. Kowal) What did Mr. Lyon say in this

respect, Mr. Parry? [170] A. On November 15, negoti-

ating -

Q. This is 1957? A. November 15, 1957, negotiating in Lawrence, Lawrence Eagle Tribune, he quoted in negotiations on wages, he quoted the New England average as \$105.51, and the average for journeymen, this is New England average for ITU journeymen; and the average for ITU journeymen; and the average for ITU journeymen in Massachusetts at \$107.21.

[171] Cross Examination

XQ. (By Mr. Van Arkel) You stated on your direct examination, Mr. Parry, that you have from time to time negotiated with the representatives of various unions affiliated with the TU throughout New England, is that right?

A. That is correct.

XQ. Have those negotiations succeeded in reaching contracts? A. You mean as a result of the negotiations, were contracts reached?

XQ. Yes. A. In some occasions, yes; in other occasions, no.

XQ. On the occasions where agreement was reached, did those contracts contain provisions,—let me ask you first, are you familiar with the General Counsel's Exhibit 2 in this case, the proposal made by Worcester Typographical [172] Union! A. Yes.

XQ. You are familian with the agreement.

Did those agreements which were entered into contain provisions identical with or similar to Section 3 of Article 1 of the proposal made by the Worcester Typographical Union?

[173] XQ. I was asking in these other negotiations in which you have participated in which agreements were arrived at, whether or not the agreement as arrived at contained language identical with or similar to that contained

in Section 7 of Article 1 of the proposal of Worcester Typographical Union? A. I know of no language in New England that's identical to this union proposal, as far as Section 7 is concerned.

XQ. How about similar to? A. Well, that is a little difficult. You get the general laws of the International Typographical Union in effect at the time of execution of this agreement. Generally where there has been an approved contract, a certain date is inserted, and it is rather than no date at all.

XQ. The agreement would state in date effective January 1 of some year? A. That's correct.

change that you have pointed to in the general laws clause so called, whether or not the agreements that you have negotiated in New England successfully have contained language similar to Section 7 of Article 1 of the Worcester union proposal? A. With the exception that I mentioned, would say language similar to that.

NQ: Has been contained in those agreements.

Now, turning to Section 5 of Article 1 on page 2 of this proposal, that states the operation, authority, hiring for, and control of each composing room shall be yested exclusively in the office through its representative, the [176] foreman, who, shall be a member of the union.

itas that language or language similar to it been contained in the agreements which you have negotiated in New England? A. If you will direct my attention to that.

Frial Examiner: Article 1, Section 5.

NQ. Article one on page 2, the top of the page. A. You are speaking of ITU contracts!

NQ. Pardon. A. You are speaking of contracts with International Typographical Union:

NQ. Yes, I was limiting my question to those contracts

you have negotiated in New England. A. Well, with reference to the International Typographical Union, not Press. man's Union or-

XQ. Right. A. Are you directing my attention specifically to the fourth line which says foreman who shall be a

member of the union!

XQ. Right. A. In all contracts which have been approved by the International Typographical Union, that language is in there, it has to be in there.

XQ. Well, I am not sure that is responsive to my question. Have you negotiated contracts containing that lan-[177] local unions affiliated with the ITU in guage with New England within let us say the last two years?

A. I have negotiated with unions in which local unions. in which international representatives participated. In what capacity I am not always sure, but, and I have negotiated the phrase who shall be members of the union, or it has been accepted by various publishers whom I acted as their agent.

Would you tell us, Mr. Parry, what negotiations you XQ. have participated in within let us say the last year with representatives either of local unions affiliated with the ITU or with international representatives of the ITU which have resulted in contracts containing the type of language we have been discussing here! A. The last year!

XQ. Yes. A. Taunton, Taunton Gazette. This is where

contracts have resulted?

[178] XQ. Right. A. I was in Lawrence with Mr. Phillips, that is at the Lawrence Eagle Tribune. And actually, if I recall, you are asking just within the last year, those are the only two places that I negotiated where contracts actually resulted.

XQ. How about in the year prior to that? A. Well, there was Brockton Enferprise; New Haven Journal and New Haven-Register. I think theXQ. New Bedford! A. Greenwich Time. These are where contracts have been—

XQ. That is right, contracts with language similar to that we have been talking about? A. That is all. That is all I can recall at this moment.

XQ. (By Mr. Segal) I take it, Mr. Parry, you were in only one of the negotiations in Worcester? A. In Wester.

XQ. Telegram-Gazette, that was November 26, is that correct? A. That is correct.

XQ. Did I understand you to say that that wasn't the first time, however, that the association you represent appeared [179] in the Telegram Gazette situation, was it? A. No, sir.

XQ. In fact, they have been in the situation— A. Well,—XQ. When? A. May I enlarge on that answer. The association itself, there is no association bargaining in New England. It so happens that Mr. Phillips might appear as an agent for the company; but in no wise representing the New England daily newspaper publishers or their association.

XQ. But as an agent for the company in that case?

A. That is correct.

XQ. In fact, in Worcester, Mr. Phillips appeared as an agent for the company long before there was any international person in the contract negotiations, is that right? A. I don't know.

Mr. Kowal: I will concede that.

NQ. (By Mr. Segal) He appeared back in '56 July before, do you recall now long before there was any international person involved! A. I didn't set a time limit back. I don't know when Mr. Phillips started negotiations at the Telegram, and I don't know whether an international representative was there first.

[184] WILLIAM J. WEINRICH
a witness called by and on behalf of the General Counsel,
being first duly sworn, was examined and testified as follows:

[185] The Witness: William J. Weinrich, W-e-i-n-r-i-c-h, 13 Goulding Drive, Auburn, Massachusetts.

## Direct Examination

- Q. (By Mr. Kowal) Where do you work, Mr. Weinrich? A. At the Worcester Telegram-Gazette.
  - Q. What do you do there! A. Production manager.
- Q. How long have you been production manager! A. Since the beginning of the year, '58.
- [187] Q. What does the words paste-makeup of all type and hand-lettered, illustrative, and so forth, going up to for the camera used in the plate-making process, what do those words refer to! A. You are asking me for my opinion!

Q. Yes, yes. A. In my opinion, this covering the pastemakeup as it has been done and is presently being done in the Worcester Telegram-Gazette.

Q. All right.

Now, after the phototypesetting machines, beginning with photosetter, can you tell us briefly what a photosetter machine is! [188] A. Well, a photosetter machine reproduces type sizes and faces on paper or film, whichever you desire.

Q. Well, how does it do it! What is new about this thing!
A. It's very similar to linotypes or rather Intertype machines, except it does not reproduce in metal slugs, it reproduces on paper or film.

Q. What skills are involved in the operation of such a machine! A. Well, the skill of a compositor as far as to

know type sizes and the actual keyboard operation of the machines; the skills of a photoengraver as far as reproducing on film and developing this film; and the skills of a makeup paste-up man as far as putting this in a complete page.

Q. This process ends in a paste-makeup, is that correct? A. It ends in a paste-makeup to the photo engravers.

Q. And the paste-makup in your plant at least is done

by artists, is that correct! A. That's correct.

Q. Now, what unions claim jurisdiction over the operation of such a machine, if you know? A. Typographical union and the photo engravers.

Q. Is it fair to say, then, that such a machine is a combination of two operations, shall we say the compositors [189] and the photo engravers? A. In our plant it would be a combination of three operations.

Q. What is the third! 'A. It would involve an artist on actual paste-up.

Q. Now, you said the phosetter machine produced on paper or film, is that right! A. That is true?

- Q. Would you describe for us the operation of the photon and linofilm machines in the same manner that you did the photosetter machine; namely, describing what skills are involved, what union makes claim to this work, and so forth? A. Well, in the photon and linofilm, they are similar as far as the end product is concerned; but they reproduce on film.
- Q. What skills are involved in the operation of such a., machine! A. There again would be a case of compositor knowing keyboard, type sizes, operate a keyboard; it is a phase of developing, some of these machines have automatic developers, others do not, to develop the film, and saste it on a complete makeup,
- Q. What unions claim jurisdiction over such a machine? Anything that is involved with film. The photo engrav-

ers want equal rights to the operation of the machine [190] so far as the film is concerned.

Q. And as to the paste-makeup, I take it that you already testified as to your plant that is done by artists? A. That's right.

[193] (By Mr. Kowal) And by these machines you mean the machines you have just been describing, is that correct! A. That is correct.

Q. That is the photon, linofilm, and the photoset, correct!

Q. All right.

The monophoto, are you familiar with that? A. Not under actual operation, but all these machines produce similar product. These are manufacturers' names, they

pretty much do the same thing.

Q. Would your testimony then be similar as to claims by unions as to the monophoto, Coxhead liner, filmotype, typro, and hadego machines? [194] A. As to the producing on films, yes; but as producing, as claiming this by machine names, I don't think it's ever been done by a photo engraver.

Q. Well, which of these machines produces on film, beginning with the monophoto, Coxhead liner, filmotype, and so forth? A. Photosetter, photon, linofilm, filmotype, I am not too familiar with a few of the other smaller machines, hand-operated machines.

Q. Is the typro and hadego'a small machine A. Yes.

Q. In your experience, have other employers who have used these machines made departments, photo-composition department or something of that kind? A. Are you referring to other newspapers?

Q. Yes. A. In the case of photosetters, yes, they have

called a photosetter department.

Q. How about any of the other machines, have they made

departments? A. No, I believe that is the most popular, that is the machine in most use.

- Q. Again, relying on your experience, has the introduction or the contemplated introduction of these machines given rise to a conflict betwen the photo engravers union and the 195] .ITU:
- A. Referring to actual negotiations or just in a matter of conversation?
- Q: I am referring to actual negotiations or contemplated introduction. A. I believe the photo engravers to the best of my knowledge have asked that this, that they have equal rights if this jurisdiction were given to the ITU.
- Q. Now, in the operation of these machines, does the one doing the paste-makeup work work in a close community with the person operating the machine? A. In plants where department has been set up, yes, they work close.

#### Cross Examination

- XQ. (By Mr. Van Arkel) Mr. Weinrich, as a matter of fact, the photo engravers have insofar as you know conceded that jurisdiction over the actual operation of these machines which are a substitute for linotype machines should belong to the International Typographical Union, have they not! A. You are talking abut the operator now, Mr. Van Arkel!
- XQ. Yes. [196] A. The actual operator, yes; so far as film, no.
- XQ. Well, so far as at least as the actual operation of these machines is concerned, that's never been a dispute between the printer and the photo engravers, has it, to your knowledge? A. Again will state as to the operator himself of the keyboard, no.
- XQ. And the disputes, such disputes as there have been, have related to the use of the processes of these machines.

once the operator has completed his work on it, is that correct? A. That's correct.

XQ. What Mr. Kowal has referred to here as pastemakeup? A. Also the development of the film.

XQ. And the development of the film.

Now, you were present at some of these negotiations, Mr. Weinrich. At any time did the Worcester Typographical Union say that they wanted to represent any artists for purposes of collective bargaining? A. I was only in the last few sessions, and as far as the jurisdictional clause was not pulled down word for word at these last two sessions. I have no knowledge of anything before that.

Q. Were you kept generally advised in the course of the

negotiations?, [197] A. Generally, yes,

XQ. Did you either in negotiations in which you participated or in the course of the reports about the course of the negotiations which you received at any time here that the Worcester Typographical Union was asking that they represent artists for purposes of collective bargaining. A. Not to my knowledge.

XQ. Now, with reference to the processes that were to be introduced, if they were introduced, was it your understanding from those negotiations in which you participated or on which you received reports that the union was asking that these processes be performed by persons who were represented by Worcester Typographical Union? A. Would you clarify that a little bit, Mr. Van Arkel?

XQ. Well, am I correct in my impression that insofar as you were aware of the union's position on this issue, what they were asking for was that composing room employees perform the tasks set forth in Section 3 of Article 1 of this proposed agreement? A. They were asking in their proposal, yes.

XQ. Are you familiar with the phrase appropriate unit for collective bargaining? A. No, I am afraid that is a

little out of my line, Mr. Van Arkel.

XQ. Well, you are familiar with the phrase composing room, [198] aren't you, Mr. Weinrich! A. Yes.

XQ. And at any time in any of these negotiations, was Worcester Typographical Union seeking to extend its jurisdiction outside the composing room? A. Well, if in the union proposal, I suppose these new processes could be brought into the composing room.

XQ. That is to say, the union was requesting that certain work be done within the composing room, is that correct? A. Yes, and including these new processes.

XQ. Right.

And at no time as far as you know did the union say that they wanted to exercise any jurisdiction over any people or processes, which were outside the composing room! A. Yes, it is a process of in the paste-makeup, that the artists is already doing in Worcester Telegram.

XQ. Well, passing for the moment, Mr. Weinrich,—Mr. Hanson: No, let's not pass it. Where did he do his work, if I may ask?

Mr. Segal: You will have your turn, Mr. Hanson. Trial Examiner: Yes, go ahead, Mr. Van Arkel.

XQ. (By Mr. Van Arkel) Did you understand the union's proposal to mean, Mr. Weinrich, that the work which was described in Section 3 of Article 1 should be done in the [199] somposing room?

A. They asked in the matter of the paste-up that the desks be put in the composing room, yes.

XQ. That that work be done in the composing room! A.

XQ. By persons represented by Worcester Typographical Union? A. That is true.

XQ. They were not asking to represent any artists or anyone else, were they? A. Not asking to represent them, no.

XQ. Or any other person outside the composing room!

A. Not asking to represent them, that I know of to my knowledge, they didn't.

[204] XQ. (By Mr. Segal) You were present at the last two negotiation sessions, I think I heard you say! A. That is true.

[205] XQ. And did I hear you tell Mr. Van Arkel the question of jurisdiction was not discussed in detail at that meeting! A. No, it was not.

XQ. There was no detailed discussion of these new processes of paste-makeup work! A. Just discussed in general as a jurisdictional clause, not taken apart word for word.

XQ. And it was discussed in terms of, if the union will withdraw that clause and two others, then negotiations can go ahead on the rest of the contract, is that right? A. That is true.

[207] Recross Examination

XQ. (By Mr. Van Arkel) Were all of the persons employed in the composing room during these negotiations in fact members of the International Typographical Union, Mr. Weinrich? A. Yes, they were.

[213] XQ. Well, am I correct then, Mr. Weinrich, in drawing the inference from your testimony that you don't know at this time exactly what the photo engravers' position with respect to these different jurisdictional proposals is! A. Only what is written here, Mr. Van Arkel.

XQ. And this, as I understand, was substantially withdrawn in view of the fact that you were not contemplating these processes, at that time, is that right? A. That is true. [225] . Joseph R. Mahdney

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

## Direct Examination

Q. (By Mr. Segal) Your title in the union, your office!
A. Local president of Local 165.

Q. And you have been employed at the Telegram-

Gazette! A. Since June 10, 1929.

.Q. Incidentally, Local Union No. 165 is the local involved in this case? A. Yes, it is.

[226] Q. And can you tell us roughly how many people are involved in the strike? A. One hundred eighty-five journeymen, and ten apprentices.

Q. And can you give us a rough idea of the length of service of the people at the Telegram-Gazette? A. About 40 per cent of them have been with the Telegram and Gazette for in excess of 25 years.

Q. Local 165 has its own offices, does it? A. It does:

Q. And it has its own by-laws? A. It does.

Q. Own bank accounts? A. It does, such as they are.

Q. And roughly how old is the local? Do you know how old the local is roughly? A. Seventy-three years.

Q. And roughly how long has it had relationships with the Telegram-Gazette if you know? A. Over all those 73 years.

Q. And is this the first time it is involved in a court hearing or court case? A. It is.

Q. In all the 73 years? A. It is.

Q. Until 1954, I gather? there was a contract between [227] Telegram-Gazette and Local 165? A. There was.

Q. And the copy of that contract is already in evidence as General Counsel Exhibit No. 2 on the left side? A. Yes, it is a copy with various markings on it.

Q. Well the markings, I think the general counsel ad-

mitted should not have been on there, and we are disregarding them. A. The printed matter is a copy.

Q. And in 1955 there were some negotiations between the

company? A. There were.

Q. Were you involved in those negotiations? A. I was.

Q. I show you General Counsel Exhibit No. 16, do you recall that document? A. Up to and including that last paragraph labeled New Section 4, with the underscoring.

Q. The underscoring, you are now referring to General Counsel Exhibit No. 16, and you are now talking about the underscoring in the last two paragraphs? A. That's true. I never remember seeing that in writing, although I have a reasonable knowledge of it being part of our negotiations.

Q. Can you tell us from your own recollection about that [228] 1955 negotiations relative to the General Counsel Exhibit No. 16 only? A. This occurred when we attempted to reopen negotiations that had been temporarily suspended with the posting or the submission to each member of a notice of an increase in salary. We call it in the jargon of the union a voluntary increase. And this was the result of many hours of negotiation with management and the union where management submitted this as their conception of what they would be willing to give us as a jurisdiction clause.

Q. When you say this, what are you referring to? A. General Counsel Exhibit No. 16.

Q. Up to the underscoring? A. Up to the underscored New Section 4.

Q. Did you question management as to what it meant?

A. My personal reaction was that—

Mr. Kowal: Well, I object.

Trial Examiner: Tell us what was stated at the meetings.

Q. To whom and by whom if you can? A. I stated at the conference table as a member of the negotiating committee of the union that I was fearful of the section because I was, as a representative of the union, that I didn't think that it covered us completely or safely; and I raised the question as to who would qualify [229] the full in the full jurisdiction.

Q. Those words are in— A. Those words are in the second last line of the paragraph which begins Section 4, and the full line reads, "The party of the first part guarantees to the party of the second part full jurisdiction over any such new process."

Now, my question was on the qualification of the full jurisdiction, and we debated the issue.

- Q. Management and the union? A. When I say we, of course, I refer to all those in the room; and we finally went to funch together, management invited us to lunch and we went to lunch with management. We then went over to the Hotel Bancroft where we held a committee meeting. I tried to impress upon the other members of the committee my theory as I had expressed it at the conference table, and to resolve the thing we decided to call Indianapolis and to seek the advice of those people who worked in the contract department there.
- Q. Did you do that? A. As a result of—we did, and as a result of that conversation, we sat down and drew up what was substantially, what is indicated on this government, General Counsel, Exhibit 16, to be New Section No. 4, Indianapolis Proposal, 7/7/55. Now, when we went back in the afternoon, we presented this to management. Management seemed a bit [230] disappointed that we hadn't come to full agreement, and they felt that they had, they said they felt that they had every reason to believe that finally after these many, many months we had come to an understanding on jurisdiction; and we pointed out that the definition of the composing room work was unilateral on the part of management because, under questioning by us as to who would define what was composing room work, they

posing room work; and our counter proposal was then that we felt that, since they would take a unilateral position, we in defense must also take a unilateral position, and we were prepared to give and take until we came out of this with what we thought would be something justifiable to both sides.

Q: Did you ever see that document, General Counsel No. 16, as it now stands with the words Indianapolis? A. Not as it now stands.

Q. You have never seen that whole document before, is

that correct? A. That's correct, yes.

Q. Sometime in '55, during the period that you were having negotiations, did-management do anything about

wages? A. During the negotiations, yes.

Q. Tell us what they did? A. I was called by, either Mr. Steele or Mr. Booth, [231] Mr. Howard Booth, and asked to drop into the office. I arrived there sometime after lunch, probably one or two o'clock, about one o'clock, I think it was, and Mr. Booth and Mr. Steele gave me a copy of what they said was going to be inserted in or affixed to the pay checks of each employee, that being a Tuesday, Tuesday being payday.

Q. That was in June, '55, was it? A. That was in June,

55, to the best of my recollection.

Q. That was prior to this discussion about the jurisdiction on General Counsel Exhibit No. 16, is that correct!

A. This was prior to this, yes.

- Q. And what did management do about wages then, will you tell us! A. They increased the wages. It was in the check of that day, and they paid retroactivity until January, 1, as I recall it.
  - Q. Had the union agreed to this? A. No.
- Q. Now, sometime in '56, negotiations were resumed, I understand? A. Yes, the union members at a special, I

believe it was a special meeting, asked us to approach management and reopen negotiations on the old proposals. I might say that the retroactivity that was posted or presented to the employees in 1955 covered the calendar year 1955 and 1956, and we sent [232] a notice to management that we wouldn't object to our people cashing their checks because they had increased them, and further we qualified that in personal conference by saying that we felt they had no right to restrict the use of their checks merely by offering them an extra 2 or 3 or \$4, whatever it was, and our commineration was to the effect that we wouldn't object to them taking it as individuals, but it bound the union to no contract, that we were prepared and willing and most anxions to continue negotiations, either at the call of management, and we sincerely hoped that management was of the same opinion; and as a result of that, we then in the summer of 1956 asked for scale negotiation meetings, based on a proposal which had been previously submitted and which resulted in, among other things, the handling of these unilateral voluntary increases or conditions of employment or whatever you should call them.

Q. Did you then put in proposals in 1956 to management?

A. I am going to have to refer to my notes if you don't

Q. All right. A. To the best of my recollection, we were able to seek a meeting on July 11, 1956, at which Mr. Steele, Mr. Phillips, and Mr. Montieth were present from management.

Q. (By Mr. Segal) Now, in July, '56, I understand there was a meeting you had with management, was there, Mr. Mahoney! A. Yes, we met in, I believe we met in Mr. George Booth's office at that time on the fourth floor; and, as I said before, Mr. Steele, Mr. Phillips, and Mr. Montieth were present from management; and the union

committee consisted of Jim Quinn and myself and Mr. DeLorme, Mr. Foley, Mr. Millett, and there was Mr. Couture there.

Q. Was the company willing to negotiate a new contract!
A. No, I would say not.

Q. What did they say? A. Mr. Steele, according to my notes, opened with the theory that, or with the assertion that he was under the impression that the posting of a unilateral management notice, that is the 1955 notice, indicated an agreement between management and the union had been reached, and it was [234] Mr. Phillips then interjected that there was tacit agreement because the men had accepted the money, because in order to cash their check for X number of dollars, that they had to take this money, X plus 2 or 3, whatever it was, that they had then indicated tacit agreement.

[235] The Witness: Mr. Steele had said that he was under the impression that the posting of his unilateral condition of employment or notice, indicated that an agreement had been reached between management and the union. And Mr. Phillips qualified it a little further by saying it was his opinion that there was tacit agreement because the men had cashed their checks, and there were no repercussions from the union upon their members; and consequently, there was agreement between the union and management.

Q. Did the union agree with this? A. The union did not agree.

Q. What did they say? A. The union claimed that both at the time that Mr. Steels and Mr. Howard Booth met with me in the office relative to [236] expressing their intention of putting this thing into the pay envelopes or affixing it to the pay, that I then raised objection officially; and in a subsequent letter I raised objection to this method of terminating negotiations; and they admitted that they

had received those things, but they still didn't agree with us, a tacit agreement had been reached between the union and management.

Q. Did you have another meeting after that! A. Well, I think I should go on with this meeting.

Q. I'm sorry. Were there other statements made at this meeting! A. If you won't object to my saying that, we went on for some time, and Mr. Phillips said that it was his position and the position of management whom he represented that they had negotiated language covering jurisdiction and it was the position of management that the local committee was agreeable to that language, but that somewhere along the line their agreement had been shaken, that they were not willing to agree when we came back from lunch that day; and we took the position that we did have a right to change our mind, and we did have a right to draw up defensive language as a counter proposal. Mr. Phillips then went on to say that there are many things in the proposal which we continued, we wished to continue negotiating, that had to be changed. For instance, he said there were [237] clause. He said it has reference to one year when another year has passed. You will probably have to change that before you can get an approvable contract. The amount of money involved, you might have to change. He also said that some of the jurisdictional language in his opinion would not be approvable. We might want to-change that. And we asked for a caucus. After caucus, during our caucus, we discussed whether it might not be more beneficial to us to submit a new proposal and begin negotiations anew; and when they came back in the room, we suggested that to management; and Mr. Phillips for management said that they would have no serious objection to negotiating a new union proposal for the year 1957 and '58, that they would not negotiate a new proposal to begin, say, on the first of Systember or the first of October, or be retroactive to

July 11 when we first met; and we left that with that in mind, that we were to draw up a new proposal and submit it to management, and to begin anew negotiating with a new proposal; and with the end in view of arriving at a contract that would begin on January 1 of the succeeding year, which would be 1957.

Q. Did you send a new proposal to management in 1956

then! A. Yes, we did.

Q. When—is that General Counsel Exhibit No. 2 that we [238] now referring to? A. I read from General Counsel Exhibit No. 2, it is a letter addressed to Mr. Richard Steele, general manager, and signed by the then president, James Quinn, and it is a 60-day notice required by, it says here, Taft-Hartley Law, Section 8 (d) (1).

Q. What date again was that? A. August 21, 1956.

Q. And in that letter, I notice you asked for a meeting. Did you have a meeting in August! A. Yes.

Q. In August you had a meeting! A. In when!

Q. August? A. Oh, no, we had no meeting in August.

Q. Did you have in September? A. No, we had no meeting in September.

Q. When did you have a meeting? A. To the best of my knowledge and my notes, August 14, 1956, at 2:30.

Q. August or October! A. October.

Q. You had a meeting in October. That was the first meeting after you presented the proposal of August 21, 1956? A. Yes.

[239] Q. And at that meeting, this was a negotiating

meeting, I understand? A. Yes, it was.

Q. And can you tell us what was said and what was negotiated? A. Well, it was customary in past negotiations that when we submitted a proposal-

Mr. Hanson: I object to it was customary.

Trial Examiner: Well, his remarks may stand. Go ahead.

A. It was the practice that, when we went in there, that

if the union was, the first meeting, the union had submitted a proposal, then management would make the opening statement, that, we felt that our statement was in the form of proposal: and then it had been the practice over the years that management would make the opening statement; consequently, Mr. Phillips, who was the spokesman for management, and he qualified himself as a spokesman for management by having Mr. Steele say that he was, he said that he thought that it was an exploratory session, that day, and he went on to say that the union proposal would increase cost by some half million dollars; and he then said that the two key points prevented a signed agreement: The ITU jurisdiction language, the observance of general laws. He said it was a waste of time until those two points were settled and he said that they would not pass on to any other phases of the contract or section of the contract until they had settled those two sections of the contract.

- Q. What did he say about negotiating the rest of the contract? A. He said he would not pass on to those until we had surmounted the stumbling blocks of the jurisdictional language which would be Section 3 of Article 1, and the ITU general laws, I would say Section 4 also because that is jurisdiction, and the ITU general laws which, I believe, are Section 7. Now in the—
- A. No, it was not except general protest by the union people that here was a big fat proposal, we felt that we should run it down from paragraph to paragraph, and leave those things 'til last which we couldn't surmount, and that eventually, when we had agreed to all other sections, that we should go on to the juri-diction and the economic clauses. It was always the practice that we leave the economics 'til the end. Mr. Phillips also said that they might have a counter proposal that would include only general laws acceptable to management. He also said that they would

not be dragooned into an agreement that is not fairly negotiated, and he also said that, if negotiations go beyond January 1—

(By Mr. Segal) Was there a further discussion at this meeting? A. Yes, there was. This meeting lasted about two and a haif to three hours, and to go on with what Mr. Phillips said, that, if we went beyond January 1, that anything that was negotiated in the form of money would be retroactive to January 1, so we agreed to that. And he said [242] meet when the counter proposal that he would was ready; but he didn't know when it would be ready. We asked then for another meeting in the very near future, and we were told that the meetings would depend on the availability of Mr. Phillips, primarily, who had many other places to be, and on, as Mr. Phillips said, top management as he always referred to with a smile, they are high-paid executives, couldn't just give up their time and their efforts at any given moment. And that was on Wednesday, October 14, and our next meeting was November 1.

Q. You had a meeting on November 1? A. Yes.

Q. At that meeting were the various proposals discussed in detail! A. At that meeting Mr. Phillips did present a counter proposal, and he asked if at that time if the union were willing to negotiate a contract on local lines, and we said that we would negotiate any contract which would provide for us what we considered to be proper protection and would cover our need and the need of those people in the composing room whom we represented.

Q. Was there a discussion of the various items in the

contract proposal at this meeting? A. No.

Q. By management first! [243] A. No. As I say, they had given us their counter proposal, and it was a very short form. We read it there at the table, and we began to discuss their counter proposal. And I might say in general,

that we were willing to reject it then; but we, a request to management, we took it with us and considered it. There was one pertinent item I think that Mr. Phillips kept repeating.

- Q. What was that? A. That the general laws of the ITU would have to be agreed upon individually and negotiated individually, and it was the union position that we would negotiate anything into a contract that would give us the proper protection even to substitute paragraph for any one of the general laws, provided that it was in the contract. There was no need for recourse to the laws; and consequently, we were not afraid to negotiate those things into them.
- Q. Did you tell this to the company at that meeting! A We did and at subsequent meetings.
- Q. Did the company at any stage point to any given laws in the ITU and say we want to negotiate those? [244] A. No, there was no pointing to the law. There was much allusion to the law, but no actual pointing to the law.
- Q. Did you have a further meeting in November of 1956? A. Yes, we had a meeting one week later on Thursday, November 8, 1956. A Union meeting intervened there on the Sunday in between. We brought the counter proposal to the union meeting, and we presented it to the members and offered a recommendation of the committee, and the union rejected the counter proposal and sent the committee back to negotiate on the original proposal.
- Q. And did you go back in November some time? A. We went back on, according to my dates, Thursday, November 8. If I might say so now, Mr. Segal, if my dates vary from Mr. Steele, that I would prefer to say on or about, because there is no disagreement as to how many times we met between me and Mr. Steele.

Q. I think he may have mentioned this was the 7th rather than the 8th. A. It may be.

Q. Did you discuss the clauses in the contract, or did

management?

Mr. Kowal: This is November 7!

Mr. Segal: 7th or 8th.

The Witness: My notes say-

Mr. Kowal: All right.

[245] The Witness: Your question was did we discuss

the contract, Mr. Segal?

Q. Yes, at this November 8 meeting? A. It was reported to management's side that we had submitted this to the local union membership, and that they had rejected it, sent us back for an approvable contract. Mr. Phillips had said he had advised management that it cannot expect to negotiate an oral agreement. There was some talk of an oral agreement.

Q. When you refer to this, I want to make sure the record reads correctly, you are referring, I gather, to General Counsel Exhibit No. 3, this so-called counter proposal of October 31, 1956, is that right? A. Yes.

Q. So that you did meet on or about November 7, 1956, Mr. Mahoney! A. Yes. And, after notifying management of the action taken at the union meeting, we then proceeded to ask management to negotiate the other phases of the contract; and Mr. Phillips, who, I don't care to repeat this every time, [246] who was management's spokesman, said that management would not refuse to discuss the contract, but that he was firm in speaking for management, he was firm that management would not grant the jurisdiction and the laws clauses, as were provided in our contract proposal. And he said then that he could see a possible impasse. And he realized that it was a position of jeopardy he might be taking and that the union could take any action it saw

fit, but he went on to say, you may strike if you wish, but, if you strike—and I am afraid I have to quote him verbatim on these next few words, "We will give you the God damnedest strike you ever saw."

Q. This was on the third meeting, this was on or about November 7? A. This was in November of 1956.

Q. Right. A. He said, "We will give you the God damnedest strike you ever saw. We will make the Springfield strike look sick," and I am quite sure that was at the November meeting.

Q. And did he in fact discuss any of the other issues in the contract? A. Not to my recollection.

Q. Was there a subsequent meeting in November? A. Yes, there was a subsequent meeting on November 29.

[247] Q. And what was management's position and main discussion if any! A. It was suggested by the union's side that we proceed to negotiate a full contract, and management's spokesman then went into a long discussion on jurisdiction At was then that they announced that they would consider using teletypesetter tape as a means of reducing cost. He said that managment would not enter in any agreement which might curtail the amount of tape that they used or the manner in which they used it; but they were willing to give the union jurisdiction over the insertion of the tape into the machine and the handling of the product of the machine after the tape had been brought through the machine. It was then that Mr. Phillips said that he had what he termed documentary evidence to show that there was a deliberate laydown or a slowdown by the men in the composing room, and we had invited Mr. Phillips to present the documentary evidence, and he refused or was not able to do so, and we had quite a harangue over that.. He said that the 1,500 lines of news matter that had been produced for so many years per day in there was not now satisfactory to management, that they would like to see it increased. The union said we'd like to see the copy cleaned up or some better arrangements made for setting clean copy, and that petered off into a discussion.

[248] Q. Were the various terms of the contract dis-

cussed? A. No.

Q. Did anyone in the union bring management's attention to the fact that they were not discussed? A. Yes, Mr. DeLorme did at that time.

Q. What did he say! A. Mr. DeLorme made the suggestion that we go on and discuss all phases of the contract as we had in the past, taking it from Article 1, Section 1, and going down through there and see where we stood apart.

Q. Did management do this! A. No, he did not, they

did not.

Q. What did they do? A. They went on, they continued their discussion of the jurisdiction language to say there is no need of this jurisdiction language. We have no intention of introducing any new processes, except that when we are forced to do so by economic reasons that we will introduce the teletypesetter tape, although we will allow the union; we will not allow the union to put any limitation on the production. We will not allow the union to say what tape we can use and cannot use, although it is our intention now to use only a wire or stocks perhaps, and the union broke up as I remember it.

Q. Did the union point out anything further to management relative to the economic issues in the contract proposals! [249] A. No. I do remember Mr. Steele saying that, pledging to the union that the management was not endeavoring to use that as a wedge to keep us from going to other economic phases of the contract, but there was a complete insistence on the part of Mr. Phillips who represented management to adhere to those two sections and to what I believe was a deliberate attempt—

Mr. Kowal: Well, I would-

Mr. Segal: Never mind what you believe.

Q. (By Mr. Segal) Did anybody say anything about that! A. What the union committee—

Mr. Kowal: Wait, I'd like to strike there was an insistence.

Trial Examiner: Well, that may go out.

Mr. Kowal: Give us the words, Mr. Mahoney, what he said.

A. The union representatives accused Mr. Phillips at the conference table of using this as a wedge to keep us from going on to other phases of the contract; and they also insisted that Mr. Phillips was being most adamant in maintaining the position that we must settle these things which he had previously said could not be settled before we can go on to any other phase or section of the contract.

Q. Was there a meeting after that in December of '56?
Mr. Kowal: What did he say? I thought you were going
to go into that. What did Phillips say when you accused
him?

[250] The Witness: Mr. Phillips had no remarks. Mr. Steele then denied it for management.

Q. (By Mr. Segal) Now we are in December, 1956, Mr. Mahoney. Will you tell us whether management was willing to take up the other sections of the contract at that meeting?

Mr. Kowal: At what meeting?

Q. December, 1956? A. My first meeting in December is December 6. It lasted from 2:30 to 4:14; according to my notes, management's position remained the same. They would not agree to the union language on jurisdiction and the general laws. The union committee asked if the jurisdiction dispute was going to hold up any economic gains; and, according to my notes, there was no reply.

Q. Did you raise any questions about any other sections of the contract? A. I interjected myself that our chief concern at that time as the year approached an end was the retention of what [251] we termed vertical priority,/ the protection by priority, of those people working in the composing room; and men whom we represented; and that we wished that under any circumstances, any conditions, that priority would not be violated, and that we would come to some agreement soon, preferably under written agreement form that would include that priority and preserve that priority. We then went on to a general discussion on the teletypsetter operation; and management then planned unilaterally that it had a right to impose conditions under which it would operate any method of production in the composing room that was willing to agree in contract to what would be mutually satisfactory, but that it claimed the right to install or to maintain or to operate any of that machinery or any of those processes, any of the phases of production, as it saw fit. We didn't argue that point.

Q. Now, was that the last meeting in 1956 with manage-

ment! A. No, we had one on December 21.

Q. And who was present for management at that meeting if you recall? A. On December 21, no, I'm sorry, my notes are referring to a scale committee meeting.

Q. Did you have any further meetings with management [252] A. No, that was the last meeting in in '56 then?

1956.

Q. Mr. Mahoney, in the entire negotiations in '56 that you have recounted, was there any discussion then of the economic issues such as wages, vacations, pension proposal, severance pay, holidays, or other economic issues that were in the union contract proposals? A. Up until that. time?

Q. That's right. A. No.

- Q. Was there a meeting in January, '57, Mr. Mahoney? A. January 8, my dates are, 1957, at which Phillips, Steele, Arnold Montieth for the management side; LaMothe, Quinn, DeLorme, Mahoney, Foley, and Millett for the union side.
- Q. And what was discussed at this meeting? A. There was some question raised about Mr. LaMothe's presence there, and Mr. Quinn stated that his presence was there because we felt that we were not getting anywhere and we asked Mr. Randolph to have someone to assist us in this matter, and he sent Mr. LaMothe as his representative to act as a mediator to see if, as an outside party, he [253] could see something in the negotiations that might be a stalling point that perhaps could be surmounted if someone else were there. And that was explained by Mr. Quinn.

Now, Mr. LaMothe's first approach to the thing was whether or not the proposal by management had been a counter proposal, and Mr. Phillips said yes, it was. And I have reference to this counter proposal we have been discussing.

- Q. What number is that? A. GC-16.
- Q. General Counsel Exhibit No. 16? A. Oh, I'm sorry, no, you showed me another, General Counsel No. 3.
- Q. That is the '56— A. October 31, 1956, that's right. Mr. Phillips said it was, and that we had rejected it, 'Sat they would still stand on their counter proposal, and we were standing on our original proposal. They wondered why Mr. LaMothe had been asking questions, and LaMothe said I got the union's side of the reason—
- A. Mr. Phillips asked Mr. LaMothe why he should be [254] questioning along these lines, and Mr. LaMothe said, well, I have the union's side of why we are at a stopping point. I thought perhaps you'd like to give us your side of it and qualify these negotiations, and clarify your

position; and then Mr. Phillips reiterated what he had so many times before, that management still insisted that they would not grant the jurisdiction clause, the general laws clause, and they were most reluctant to go on to any other sections of the contract until those two stumbling blocks had been removed.

Q. Were any other sections of the contract discussed on January 8, 1957? A. No. We spent most of our time that day according to my notes on a general discussion of what had gone before. Mr. Phillips again accused the members of laying down or lying down, and Mr. Steele's assertion that the Telegram-Gazette did not refuse to bargain in good faith, but it could not agree on the jurisdiction language, they still were not interested in new processes, and then there was then that he introduced the idea that he would attempt to sell, this is Mr. Steele, attempt to sell the publisher the idea of presenting what has been termed a non-introductory clause; that is to say, that management would agree in contract not to introduce any of these new methods of composing room work.

[255] Q. This was the clause that had been in the old

contract! A. Yes.

Q. And Mr. Phillips was it who now suggested that they would, they might go along with the old contract clause, is that it? A. No, Mr. Steele said he would attempt to convince the management that they should go along with the clause. Introduce a clause like that.

Q. Now, at that meeting then, were the other, the economic issues were not discussed, is that a fair statement?

A. That is true.

Q. Was there a request for a meeting immediately following this first meeting in January? A. January 22, I have a record of a meeting.

Q. And who was present beside the management and union people at this meeting? A. We first met with the

mediators, Anna Weinstock and Anthony Braker, from the federal and state mediation services.

- Q. What did you tell those mediators relative to the position of the union? A. Well, we were with them for 45, minutes in the conference room of the Telegram and Gazette adjoining Mr. Steele's office. We met alone with them, and we gave them the history of local negotiations; and the mediators then went in and conferred with management alone; and they returned about an [256] hour later, that is an hour from the opening of the meeting, and they reported they had no progress with management, and they asked for another meeting of both sides before the union took any action. This was in January 22. The committee caucused, and then agreed to hold-a special union meeting on January 23, that is a special union meeting. And they told the mediators that they were going to do so, but they agreed with the mediators that they would schedule a meeting with management for January 30 at ten o'clock in the morning. That was agreeable to both sides, and we left that day with the understanding we were to have this meeting on January 30.
- Q. Was there a meeting held on January 30? A. Yes, there was.
- Q. Was there a new element introduced in the meeting of January 30? A. Yes.
- Q. What was it? A. We met with the mediators first again, and Mr. Braker informed us that management was now represented by an attorney, Elisha Hanson, whom we had never met before, and also an aftorney, Robert Bowditch, whom we had never met before.
- Q. Was the union represented by any attorney! [257]
- Q. Had there been any attorneys in the negotiations up til now in the current series you have been talking about? A. No.

Q. And at this meeting will you tell us what was said relative to the contract proposals so far as you recall? A. Well the meeting when we finally got together with management, Mr. Hanson opened, as the spokesman for management, and he said that the Telegram and Gazette management would be willing to negotiate an agreement; but it was his opinion that many of our contract clauses, and those contract clauses existed in other places, were completely illegal.

Q. Was this the first time that that phrase has been used in your negotiations! A. No, Mr. Phillips had used it on a number of occasions, but it was the first time that any attorney, anyone learned in the law, had told us of this.

Q. And was there a discussion of the various economic issues at this meeting! A. No, there was some discussion btween me and Mr. Hanson on the refusal of management to go into the whole contract negotiation; and Mr. Phillips said, well, we gave you a counter proposal, and I objected, saying that it was a very sketchy counter proposal. It certainly wasn't a worthy [258] counter proposal considering the great length that we went to in submitting a contract proposal, and that we had rejected that anyways. And Mr. Hanson said, all right, we will withdraw everything that has gone on before, we will prepare a new counter proposal for you. We will start from scratch at our next meeting; and we went on then to, Mr. LaMothe asked if—we met with the mediators for a while after that, Mr. LaMothe asked the mediators if they would request management to have either Mr. Stoddard or Mr. Howard Booth, that is the president and the publisher respectively, to participate in these negotiations; and they came back and said that the answer from-

Q. Who is they? A. The mediators.

Q. Right. A. The mediators came back and said the answer from management was that they didn't think we had much chance of either of those gentlemen sitting down with us. They asked them to, but not to hold out any great hope for their being there. And we left at 4:15 with the understanding that we would meet again. We were to meet again when the counter proposal would be ready, which would be the first of the following week. Mr. Hanson said he would return on Friday, February 8, at 10:30 to negotiate a new proposal; and he also offered the opinion that management thought that [259] we would be foolish to ask for strike sanction because strike sanction wouldn't be granted, and besides, if we got strike sanction, it would have no bearing on the attitude of management.

Q. Did you in fact meet on February 8? A. Yes.

Q. And was there a discussion of the various issues in the proposals or was it limited to some areas? Will you tell us what went on in this meeting of February 8? A. I must take moment, if you don't mind, we had a general discussion with the mediators on the counter proposal and the mediators in turn, of course, brought what we had to say into management; and the mediators returned and said that management would give us no contract with the ITU laws or jurisdiction; but they would consent to post a statement of working conditions. We immediately took issue with this interjecting this posting of conditions because it was our belief, and I was most—

Trial Examiner: Just a minute. This is just between, this was at the separate meeting that you had with the mediators, is that correct!

The Witness: That is correct.

Trial Examiner: Well, suppose as a result of that, what, if anything, did you state to the company.

Q. (By Mr. Segal) Did you have a meeting with the [260] company after the mediation meeting? A. Yes, we did.

Q. What was said at that meeting with the company rela-

tive to the proposals, this, I take it sometime after noon of February 8. A. You will have to understand that the mediators brought the message to us, and we gave a message for the mediators to bring back to management; and that cross action, if you will call it that, resulted in management's final coming back and sitting in the same room with us.

Q. That is where we are now. And what was said when you were brought back? A. Mr. Hanson did the talking, and he said that what we had told the mediators to tell them amounted to what he thought was that we were asking for too much, and they will not agree to any further increases in money to the union. The union could take it or leave it without binding the union to anything.

Q. What was he talking about? Was there anything relative to wages that was on the table or anywhere else? A. Well, introduced this condition of employment paper, and he proceeded, or he offered to discuss it with us, and we objected, saying no, we had one sad experience where we attempted to reopen negotiations and Mr. Phillips had immediately said to us there is an agreement existing between [261] us, and Mr. Steele said the same thing because you accepted the money and the conditions of employment; and we said, as a matter of fact, I said, that we will do nothing in the form of negotiating this thing because we don't want in any way to indicate that there had been any meeting of the minds at a conference table on this thing.

Q. Did Mr. Hanson say he was willing to negotiate or just discuss it? A. Then Mr. Hanson said I didn't intend that you should be trapped into any negotiating. I merely want you to have an opportunity to discuss this with us. We would like to qualify why we are doing these certain things we are doing. We want to reassure the union that there are going to be no violations of your priority, that we will avail ourselves of the joint standing committee pro-

cedure. We want you to know that management appreciates the positions of both sides in this negotiation, and we certainly will discuss with the union the introduction of any new process before the installation of that process, and Mr. Hanson said that is the only reason I want to discuss this thing with you. You have already said to the mediators what is contained in the monetary proposition in the posting of conditions of employment. I told the mediators that isn't sufficient, and he went on to object to what we were asking for when we reduced our original demand before the [262] six and six; that is \$6 the first year, mediators to \$6 the second year, where we had been asking for \$9 on a one-year contract. We then told the mediators we would be willing to go along on a two-year agreement if we could get \$6 and \$6. And the mediators said they would bring that back.

Q. And you say there was reference made to the priority system. Would you tell us again what that statement was? A. Well, we were always fearful of the loss of priority. Mr. Kowal: No. tell us—

Q. Tell us the statement that was made? A. I said to Mr. Hanson that there is nothing contained in any condition of employment that I have seen yet or heard you read that would guarantee to us priority, or the rights of priority which we have enjoyed all these years. And Mr. Hanson said that I couldn't put all those things into a document because it would reach to the floor where we tried to post it on our bulletin board, or words to that effect. He said, I will, however, guarantee to you in the name of management that your priority will continue, the same procedure will follow in priority matters, and it will be held inviolate as it has been held in the past; and I told Mr. Hanson at that time that I was willing to take his word for it without asking him to put it into such a document as he described would result in putting all these things in.

[263]. Q. As a matter of fact, subsequent to that, did you in fact have an experience relative to priority! A. Yes, we did.

Q. With the company. Tell us about that! A. The conditions of employment were posted, I believe, in February, about the 8th of February.

Q. This is '57! A. Of 1957.

Trial Examiner: Is that General Counsel's Exhibit 6 you are referring to?

The Witness: Yes.

Trial Examiner: All right.

Q. That was posted in February, '57? A. Yes, it was customary about the latter part of April for the foreman to say to the chairman of the chapel we have got to get this vacation schedule lined up now. Will you go around and survey your members and find out what vacations they want and the proper priority of them. This is a practice that had gone on for many years, and a list of those eligible for vacations was given to the chairman, and he went about and asked each man in their priority order what vacation period they wished. And when the schedule was completed, he submitted it to the foreman. Now, this year, in 1957, when he submitted it to the foreman, the foreman protested saying all my makeup men are off at one period; and it was pointed out to him that, since it was [264] a vertical shop, he had many, many makeup men who were trained right there in the plant and who had been given every phase. of the training; but Mr. Madden insisted that he would retain Mr. Milton Swenson or ask him-

Mr. Kowal: Who is Madden?

The Witness: Mr. Madden, he was then the foreman. I understand he has another title now. He was then the foreman of the composing room on the day side of the Telegram and Gazette. And he approached Swenson and he told Swenson that he wanted him to change his vacation to

conform with what his plans were for Swenson's vacation, and Swenson protested to the chapel chairman and the chapel chairman approached Mr. Madden. Mr. Madden would not relent. He finally went to see Mr. Weinrich, and Mr. Weinrich after some conversation with Mr. Madden had Mr. Madden say to Mr. Woolan, the chapel chairman, that the matter had been straightened out and that Swenson would get his vacation.

. Q. Shortly after that, did you run into a problem relative to Mr. O'Toole! A. Well, it was a little longer than shortly thereafter; but we did run into a problem involving a machinist out of priority which we resolved after many sessions of discussion; but then a Mr. O'Toole showed'up at the Telegram and Gazette and presented himself for hire. He was hired [265] by the night foreman. stated his qualifications to be those of machinist and a proofreader. Now, it was customary in the hiring practiceof the composing room under vertical priority rules that, if a man were accepted by the foreman on the night side as competent, then it was recognized by the foreman on the day side also, that that man was competent. It was also cus-Tomary in a vertical shop that a man could be moved by the foreman from one job to another according to the needs of the office and to get out the daily paper or for whatever other work was necessary; and there was no recourse that the finan expected to be moved to any job which he was competent to perform or to any job to which the foreman chose to place him on. However, there was one reservation, and it had been recognized for many years, that the foreman would not and could not move a man to a job in the composing room upon which the man claimed no competency, and use that lack of competency then for the purpose of discharging the man. Now, sometime in October, I believe it was, Mr. O'Toole, who was a substitute on the night side, who had been employed by the Telegram and

Gazette composing room from June until October, who had been used in the classifications to which he claimed competency, and who had been used as substitute for many in other classifications, and once he was used for those inen, the foreman shifted his men around to cover [266] his needs and allowed. O'Toole to either work as a machinist or a proof reader. Now, Mr. O'Toole was for all these months a substitute on the night side, and the months went by and O'Toole was at the top of the substitute list, and O'Toole chose as was his right as a substitute that rather than substitute on the night side he would then begin to substitute on the day side. Now, a sub was permitted to do this providing that he was not covering a situation holder. That is to say, that he was not being used as a substitute for a man that was off a regular job.

Now, Mr. O'Toole was in the clear along all those lines, and he arrived at the Telegram and Gazette day side, and Mr. Madden came into work about 8.45 that morning, he said to O'Toole from this day on you will work as an adman, an adman being a classification of work whereby the men in the composing room in that section take the type that has been composed by machine and assemble it in the proper form and shape so that to best display to the advertiser what his wishes had been in the raw copy. Mr. O'Toole said to Mr. Madden I have no competency. I have no knowledge of this phase of it.

Trial Examiner: Wait a minute. Were you present while all this was going on?

The Witness: No, I was not. I was not, I was in the composing room, but not in the conference.

[267] Q. Tell us what you know of your experience.

Trial Examiner: Just don't try to quote conversation that they had out of your presence.

A. It was reported to me by the chairman of the chapel, and that is the only knowledge I have of it.

Trial Examiner: Go ahead.

A - Mr. Madden placed Mr. O'Toole in the ad alley. I know of my own knowledge that he was assigned to the adalley because I saw.him working in the ad alley; on one of my many trips, I should say not many, but on one of my trips to the men's room, I stopped at Mr. O'Toole's frame and asked Mr. O'Toole, why he was setting ads when he had never set ads on the night side, and he said the foreman has put me over here. I told the foreman-I am not competent, and that is as far as it went, so I said, what did you do about it! He said, I went to the chapel chairman and the chapel chairman protested to Madden that this man claims no competency. I remind you that it is practice that you cannot discharge him for incompetence where he claims no competence. And the chapel chairman and Mr. Madden, the foreman, and Mr. O'Toole had that conversation as reported to me by Mr. O'Toole. At the end of that financial week, Mr. O'Toole showed me a communication from Mr. Madden who was still the foreman, stating that he was discharging Mr. O'Toole for incompetence.

[268] Q. Roughly, when was this, Mr. Mahoney! A.

This was early in October.

Q. 1957? A. That's right. Immediately that become known to all the men in the composing room, and I was deluged with questions from the members of our union who were employed in the composing room there asking me what the union was going to do about this sudden violation of vertical priority after so many, many years when a man was, could go to work in the morning, and he didn't have to be fearful—

Mr. Kowal: I'd like to object. Can you make it a little shorter, Mr. Mahoney? Just sum it up if that is possible.

Q. (By Mr. Segal) Yes. Is it a fair statement, Mr. Mahoney, to say this matter of what the union considered a violation was known to all the men sometime in October?

A. This was the worst violation of vertical priority or any priority that I have ever seen in the years that I spent in the composing room.

[269] Q. Mr. Mahoney, to get back for a minute now, as I understand it, the last meeting that we talked about here was February, '57, had there been any meetings between February, '57, and the time of this incident you have been telling us about involving Mr. O'Toole relative to negotiations with management? A. What type of incidents do you mean?

Q. No, let me rephrase that. In February of 57, I think you have told us about the meeting you had with manage-

ment, negotiations? A. Yes.

'committee and management?

Q. Then we had the Swenson incident and you just told us about the O'Toole incident. Had there been any negotiations with management between February, the one you have described, and the times of these two incidents, one was the Swenson, and two was the O'Toole one in October of '57'?

A. Do you mean negotiation of the union committee, a scale

Q. Right. A: No, there had not.

Q. Had there been any request by the union to hold such meetings of management? A. No, not until—

Mr. Kowal: That is all in evidence, Mr. Segal: You [270] did make the request.

The Witness: Except those letters you put in.

Q. That is my point. You did send letters requesting meetings with management. Did you get any meetings with management immediately after you sent these letters? A. No. I sent two letters to Mr. Howard Booth, the publisher. I sent them to him because we merely addressed our correspondence to Mr. Booth, and I received no reply from the first. I sent a second, I received no reply. I called Mr. Booth and asked him if by his silence he was indicating that the

management was refusing to sit with us! And Mr. Booth told me no, that wasn't the case, that he was going to take it up with Mr. Steele. Very shortly thereafter you a call from Mr. Steele. I was at work, and he asked to drop up after the work day was over. I went to see Mr. Steele, and he told me that on the next day, or in the very near future, I would receive a letter from Howard Booth in reply to my letter to management.

Q. I show you General Counsel's Exhibit No. 8, 9, and 10, Mr. Mahoney. Are those the letters you made reference to just now, and General Counsel Exhibit 11 as well! A. Yes, I see the exhibits.

Q. And when was the first time you asked management by letter to have a meeting for collective bargaining purposes! [271] A. September 6, 1957.

Q. Did you get an answer to that letter? A. I did not.

Q. Did you write them again requesting collective bargaining meeting? A. I wrote them again on September 25.

Q. Is that General Counsel Exhibit— A. That is General Counsel Exhibit No. 9.

Q. Did you get an answer to that letter? A. No, I did not.

Q. What did you do then! A. I did not get an answer to the letter until I called Mr. Booth, and I will have to go into the meeting with Mr. Steele, if you want this chronologically.

Q. You got an answer from Mr. Booth! A. I did not,

Q. All right.

Did you write another letter or did you get a letter from management? A. I called Mr. Booth after the second letter and told him, asked him if his silence indicated that he was unwilling to meet with us. That they refused to bargain, and he said, no that was not the case, that he would take the matter up with Mr. Stecle; and a short time there-

after I got a call from Mr. Steele to go to his office. He said he had [272] a couple of matters he wishes to discuss with me, and I went up alone, Mr. Steele said the reason for calling me was that Howard had got in touch with him and told him about the letters he had received, and that I was going to get a letter from Mr. Booth, and Le would like to qualify the letter before I got it. I told him I was willing to listen. And Mr. Steele told me in substance that the management's position was that we weren't going to get any place by renegotiating the old contract proposal. It was still their position that they weren't going to budge on the jurisdiction or the general laws, and that it was the opinion of management that it would be fruitless to sit down and waste their time and our time to negotiate a contract. I told Mr. Steele at that time that I was acting under instructions from the union, and that I could certainly sympathize with his thoughts if management retained the position that they had that we certainly never would get any place, but that the union was still ready to sit down and negotiate a full and complete contract that was approvable.

Q. Did you get a letter from management? A. And the next day or a day after, I got a letter from Mr. Howard Booth saying that he writes to inform, I will read from it—

Q. This is General Counsel Exhibit what! [273] A. General Counsel Exhibit No. 10, dated September 30, 1957, addressed to me, Dear Mr. Mahoney, Answering your letter of September 6, 1957, proposing that Worcester Telegram Publishing Company, Inc., meet with scale committee of the union for the purpose of continuing negotiations toward a complete agreement, I write to inform you that the company doesn't consider this to be a reasonable time for negotiating. And it is signed by Mr. Howard M. Booth, publisher.

Q. Did the union make any further attempts to get a negotiating meeting with the company? A. I reported this

to the union meeting and on November 5 I wrote this communication to Mr. Howard Booth.

- Q. Which is what, General Counsel Exhibit— A. This is marked General Counsel No. 11, and it is dated November 5, 1957, it is addressed to Howard M. Booth, publisher, Worcester Telegram Publishing Company, and I say, if you will permit me to read from the exhibit—
- Q. And in that letter which speaks for itself did you ask for a meeting with management? [274] A. I say I again and for the third time respectfully request a meeting between management and the union.
  - Q. Did you get an answer to that letter? A. No.
- Q. A meeting was held, however, sometime in the end of November, 1957.
- Q. (By Mr. Segal) Mr. Mahoney, we were about to cover the November 26 meeting. Before we come to that, I want to go back to February 8 meeting for just one minute. At the February 8 meeting, was there any reference to any impass? A. Yes, there was.
  - Q. Who made it and what was said?

Mr. Kowal: I just want to go back to my notes, if you don't mind. Okay. I'm sorry, go ahead.

- A. Now, pay I have the question.
- Q. Who made any reference to impass, and under what conditions was this made? A. At the February 8 meeting when Mr. Hanson entered the room with management, and as management's spokesman, as a part of his remarks or his reason for posting or reading these [275] conditions of employment, he declared that it was obvious to him and to management that impass had been reached, and that they were posting these conditions of employment so that they could square away with the employees such raises as they wish to give them, and also to tell the employees in the

composing room under what conditions they were willing to employ them.

Q. Now, prior to this time-

Mr. Kowal: Would you complete it if you are not through. The Witness: It was then we went on to discuss these phases such as priority and management appreciating the position of both sides and management willing to continue the use of the joint starting committees and those things that Mr. Hanson said would make the posting or the notice that he was going to post too lengthy.

Q. Prior to this statement by Mr. Hanson, had there been a discussion of the various economic issues such as wages, vacations, pensions, severance pay, insurance, and the other proposals in the contract?

Mr. Kowal: Is that in '57?

Q. That is up to the meeting of February 8, 1957, when Mr. Hanson announced this impass.

Mr. Kowal: In '57 or all the way along?

Mr. Segal: '57.

Mr. Kowal: Okay.

[276] A. No, there was not.

Q. Now, we come then to a meeting in November 26, which came after the various letters the union had unsuccessfully tried to get this meeting which are General Counsel's Exhibits that we have already referred to. Now, will you tell us what went on in the meeting of November 26, Mr. Mahoney! A. I didn't get your whole question.

Q. All right.

Will you tell us exactly what went on in the meeting of November 26? A. Well, the meeting of November 26 was arranged as I recall by telephone, I called Mr. Steele and told him that we wished a meeting of the scale negotiation committee for the purpose of continuing negotiations, and he asked me if he could call me back, and he did, and we arranged the meeting. Now, the meeting was attended from

management's side by Mr. Hanson, Mr. Steele, Mr. Bowditch, Mr. Alfred Arnold, Mr. Weinrich, and Mr. Parry. The union's side was represented by Mr. Lyon, Mr. La-Mothe, and Mr. Mahoney, Mr. DeLorme, Mr. Foley, and Mr. John Fitzgerald, Jr.

We opened as we usually did by a general discussion of why we had asked to meet again, and what we hoped to gain by meeting and the position of management was unchanged. [277] Ar. Hanson said that, Mr. Hanson then said that the company was willing to contract for wages, hours, and working conditions. He then cited the 7th Circuit Court of Appeals in Chicago in reference to the union demanding; as he termed, demanding union foremen and the ITU general laws against management's refusal. He went on to say that, if we insisted on the laws, if we insisted on the union foreman, that they would bring action in the Seventh Circuit Court of Appeals to try to get a citation for contempt. I suggested to Mr. Hanson that the principal argument by him and by Mr. Phillips had been on jurisdiction and general laws, and that they hadn't gone on to any other phases of the contract. Mr. Hanson then said that he was willing to negotiate the old contract, and he began a discussion of the old proposals, saying that it didn't coincide even closely with management's wishes, and what they considered would be a contract under which they could operate economically. He also said the conditions had not either been agreed to or disagreed to by management. By conditions he meant the conditions posted on the bulletin board, and we were quite surprised when Mr. Hanson said then at that meeting that management under the Taft-Hartley Law did not have the right to give out the jurisdiction, jurisdiction to any craft or union. He also said that he didn't think that negotiations were [278] impossible of solution.

Q. Did he offer a solution? A. Yes, he did. His solu-

tion would be that, if we resolved or withdrew or ceded the o jurisdiction, general laws, and foreman clauses, then we could go on and very easily arrive at a written agreement. Mr. Lyon then spoke for the local union, and he gave reasons why the local union wanted a workable contract. He said it was not unusual for a contract to be signed between unions and managements containing these clauses which we sought.

Did he cite any examples of that! A. He referred to the Gannett papers, and he also referred to the negotiations then going on in Lawrence, Massachusetts, which contained a similar, if not identical, proposal to the one in Worcester.

Mr. Hanson said he had no knowledge of the Lawrence contracts, but he hadn't read the Lawrence contract, and it went on then to a discussion of what would happen if the union took economic action against the company.

Mr. Hanson said that if you do strike, we will go right to the National Labor Relations Board and have them bring you before the Seventh District Court in Chicago, and we will have, we will attempt to have you cited for contempt under some other previous case which was against the union in Chicago. Mr. Lyon then said that, if a strike occurred, it would be by an individual action of the local union members, it would not be either inspired by the international union or the international union would do nothing to force the union to a strike, that it would be-

Mr. Kowal: Who said that, I didn't eatch that?

The Witness: Mr. Lvon, L-y-o-n.

Mr. Hanson then said would you once again take our counter proposal which I gave you last February, and will you give it new consideration or reconsideration !. And we, agreed that we would, and that we would report back to the management side what resulted from our conversation of their proposal,

Q. Did the union then take the proposal and come back

on November 27 and give its position as far as where the parties stood? A: Yes, we did:

- Q. Did you speak up at the meeting of the 27th and outline the position of the union at that time? A. Yes, I did. I took our proposal and I went paragraph by paragraph and gave them what we considered our comparison of their proposal as against ours, and why we couldn't accept their proposal in toto.
- Q. Did you point out to management for instance that you were apart on various items? A. I did.
- [280] Q. Were these items among the following: Wages!
  - Q. Vacations! A. Yes.
  - Q. Sick leave! A. Yes.
  - Q. Pensions? A. Yes.
  - Q. Severance pay! A. Yes.
  - Q. Overtime! A. Yes.
  - Q. Hospital insurance! A. Yes.
  - Q. Election day! A. Yes.
- Q. Were these items all brought to the attention of management at this particular meeting of November 27? A. Section by section were brought to the attention of management.
- Q. What was management's position at this meeting?
  A. Well, management's position was best indicated, I. think—

Mr. Hanson: I object to the way he is phrasing that.

- Q. Just tell us what their position was! [281] A. Management's position was stated by Mr. Hanson when he felt conditions were the same as last February regarding negotiations, and he asked if the union was ready to drop the union foreman, general laws, and jurisdiction language over new processes.
- Q. Was management willing to discuss these other issues until the union dropped these other proposals?

Mr. Kowal: Wait. I wish you'd go on. I object. The thing was, is the union willing to drop the three items. What did the union say? I'd like to get that in.

Q. All right. What was said with respect to that! A. The union said unequivocably that we did not intend to drop any of our language. We were willing to negotiate it all, but we would not withdraw it.

- Q. What was management's position, again, when Mr. Kowal interrupted us! A. Mr. Hanson then said that the union would not get jurisdiction over processes not yet introduced into the Telegram and Gazette. He then went on to say that the ITU was operating outside of the law, and he took us on a long and circuitous route through the Seventh Circuit Court of Chicago even over into Honolulu into some cases over there; and when this travelogue was over, he threw up his hands and said, where do we go from here? And we asked him the same question, and he: said, I don't know. We asked for [282] a short recess. We caucused and when we asked management to come back into the room, I announced to management that Mr. Lyon would then be our spokesman and Mr. Lyon said that the union had instructed him to bid the management committee good day, and that ended the negotiations.
- Q. And the strike took place when? A. The strike took place at 6:00 p.m. on November 20. I notified management about 20 minutes to six that we were, the union had voted to strike at 6:00 p.m.
- Q. Have there been any other negotiations since that date with management? A. There was one attempt to negotiate.
- Q. When was that? A. I believe it was February 8 of 1958. I called Mr. Steele and asked him if myself and Mr. DeLorme could meet him in his office and discuss whether there were any way to resume negotiations.

Q. What answer did you get? A. Mr. Steele readily

agreed to meet with me, and I went to his office on the date mentioned or thereabout.

Q. What was said there? A. Mr. Steele was there with Mr. Bowditch, and we exchanged pleasantries, and I then said we were sent there by the general committee of the union to explore whether there were any way that we could resume negotiations [283] on a focal level, and Mr. Steele said that he was a little fearful that we were not able to negotiate on a local level because Mr. Lyon and Mr. La-Mothe had been in the picture, and that he was afraid the international union would not allow us to do so. I told him that I didn't think I would be violating any confidence when I told him that I informed Indianapolis by telephone that I was going in there, I was going to attempt to resume negotiations on a local level and that Indianapolis did not deny me the right to.

Mr. Kowal: What! Indianapolis did not do what!

The Witness: Did not deny me the right to. As a matter of fact, I had their blessing.

Q. What did management say? A. I asked Mr. Steele what suggestions he had to resume the negotiations on a local level, and Mr. Steele said, I don't see there is much we can do. The government has taken this out of our hands now, and he turned to Mr. Bowditch, and asked Mr. Bowditch if that were not substantially so, and Mr. Bowditch said yes, I should say so; and after Mr. Steele told me that the government had taken this thing out of his hands, I said to him, well, how far do you intend to pursue this, is it to the first set of hearings or is it to any preliminary hearings, or do you intend to pursue this thing to the final disposition [284] of the case? And he says, yes, he thought that the government would pursue it that far, that it really was out of the hands of management, and we left on a note that we could come back any time that we had any ideas. He would be willing to sit down and discuss

them with us, and that management felt that, if they had anything to discuss with the union, that they would feel free to call upon the union representatives to come in and discuss them, especially any solution to the subject of getating these negotiations started again.

Q. Have you heard from management relative to that

since? A. No, I haven't.

Q. Prior to that date or sometime in February or March, did the state conciliation service call a conference! A. Yes, we were notified by the state conciliation service of a hearing to be held at the State House in Boston.

[286] Q. At any rate, as I understand it, the union committee went to the State House at the summons of the state board of conciliation, but the company was not there, but this letter was there, as I understand? A. We were met at the State House by one of our counsel, Mr. Flamm, and he gave us this and said this is, the meeting's off, the board or the service has been in receipt of this letter, a copy of which I have here for you.

Q. And the meeting was scheduled for February 21, I

think [2874] you said? A. Yes, that's right.

Q. Now, there have been no other collective bargaining sessions between the company and the union? A. Have there been no others?

Q. Yes. A. No, there haven't.

Q. During all these meetings, Mr. Mahoney, was there ever any mention of any other union's claiming jurisdiction of anything? A. Not to my knowledge, no.

Q. Was there a meeting held prior to the strike taking place? A. A union meeting you mean?

Q. Yes? A. Yes, there was.

Q. Did you at that union meeting speak? [288] A. Yes, I did.

Q: Did you tell the people at the meeting the status of negotiations, Mr. Mahoney! A. As chairman of the negotiating committee, I gave a report on the status of the negotiations as of that time.

Q. Did you tell the people the status on wages? A. Yes, I did.

Q. On vacations! A. Yes, I did.

Q. On holidays! A. Yes, I did.

Q. Sick leave? A. Yes.

Q. Severance pay? A. Yes.

Q. Pensions! A. Yes.

Q. Insurance? [289] A. Yes.

Q. Election days? A. Yes.

Q. Did you also tell them about the company's position on jurisdiction? A. I most certainly did.

Q. ITU laws! A. Yes.

Q. Did you report at that meeting on the O'Toole incident? A. Yes, I did.

Q. During all these collective bargaining sessions, Mr. Mahoney, was there any discussion of paste-makeup work?

[290] Q. Were you familiar with the agreement that had been in effect between the company and Local 165 prior to January 1, 1953? A. Yes.

Q. In general did those agreements prior to the passage of the Taft-Hartley Law use the word members throughout? [291] A. Yes, they did, yes.

Q. After passage of the Taft-Hartley Act, were steps taken to change the word members to the word journeymen or employees or persons? A. Yes, the were.

Q. (By Mr. Van Arkel) In all instances were those

changes made as was intended, Mr. Mahoney? A. To the best of my knowledge, they were.

[292] Q. (By Mr. Van Arkel) Well, I'd like specifically, Mr. Mahoney, to call your attention to Page 4, the third paragraph in the left hand column, which begins, if the discharged member be reinstated, by the joint standing committee, said member shall be paid for lost time. Can you explain how the word member happened to appear in that contract at that point?

A. The only explanation I can make is that it is inadvertently in there. I might qualify that to say that this old contract was the result of many, many hours of joint effort on the part of the union and management to arrive at a workable set of rules, as it were, workable conditions under which we could operate; and it was an earnest and sincere effort on the part of both sides to really beat out the language of that 1954 agreement, and both Mr. Phillips and myself and all numbers of both committees really contributed generously and perhaps equally to the beating out of that language; and we made a sincere effort tochange [293] any wording or terminology that might be a stumbling block, either legally or otherwise, and that word member, the first reaction I get is I am surprised it is in there; and if it is in there, it is in there inadvertently, I think, by either side.

Q. Well now, I ask you to look at page 5 of the old contract, Section 8, I notice that the union had proposed that that be deleted from the new proposal, is that correct?

A. Yes, and that was one area where there was no dispute. Management had agreed to delete that section from the new contract.

Q. Now, looking at page 8, under Section 5, paragraph 3 of Section 5, which starts, in giving nights or days off.

the foreman shall give preference to members oldest in priority standing. There again the word member is used. A. There again I would say it is inadvertent. If that is in there, it is in there inadvertently. At all times at the conference table we represented ourselves to be the bargaining agent for the people in the composing room, and had no reference to members. We used the personal pronoun at all times, we or us, you.

Q. Now, page 9 of this agreement, Section 6, paragraph 3, I note the language members of the night shift shall be paid time and one half for work performed on issued days of [294] designated holidays; members working their sixth or seventh shift on designated holidays shall be paid double straight time rates. I notice that that language had been deleted in the union proposal as submitted? A. Yes, the left hand column, as I said, was a joint effort, and the right hand column was our new proposal, and I don't see it in our new proposal.

Q. Now, would you turn back to Section 7 on page 7 of the proposal. Was there in the course of negotiations which led up to the making of that agreement some discussion about the language of Section 7? A. There was a lot of discussion; as a matter of fact, I thought both sides were mighty proud of this apprentice section, apprentice article. This was when we really got down to the business of training apprentices, we convinced each other that the first step we should take in the training of an apprentice was to completely disassociate ourselves from any selfish motive.

Mr. Kowal: Is this part of the discussion, Mr. Mahoney? The Witness: At the time we negotiated this section? Mr. Kowal: Yes?

The Witness: Yes, it was, very much a part of the discussion.

[295] Trial Examiner: He was doing a little sales promotion there. As long as it was agreed up there was negotiation and you agreed to that clause, that is the way I understand it, is it not?

The Witness: This clause was a result of a joint effort

by the management and the union to write this clause.

Trial Examiner: I mean it is in the contract.

Q: (By Mr. Van Arkel) Was this the form in which it had been originally submitted by the union? A. Oh, no.

Q. Do you recall what that was! A. We submitted the old form where we said that they shall take the lessons in printing and management objected, saying that they thought that they might be treading on dangerous [296] ground, that they felt they didn't have any right to take that much of a part in the union program where they could dictate to a boy that he must take these lessons, and I am quite sure that it was Mr. Phillips who suggested that they just insert the word advised or rewrite it to say let's advise the box and we were agreeable to that, and it was approved in that manner.

Q. And was it made clear in the course of those discussions that any requirement that the course of lessons be taken was eliminated and in its stead the apprentices would be advised to? A. Mr. Phillips made sure it was under-

stood even before he agreed to. He was fearful.

Q. Mr. Mahoney, as you were aware better than we, there has been a good talk, a bit of discussion here about the jurisdiction clause of the proposed agreement. At any time in the course of the negotiations up to the time of the strike, did Local 165 make any demand to represent for purposes of collective bargaining any persons other than persons employed in the composing room? A. No.

Q. Specifically at any time did it make any demands that it be recognized as representing people doing the work

of artists? A. No.

[297] Q. Are you familiar with the term appropriate a bargaining unit? A. I believe so.

Q. I note that your proposal Section 3 of Article 1 starts off jurisdiction of the union and the appropriate unit for collective bargaining is defined, and then continuing with the rest of the language. Was this a proposal by the union that the appropriate bargaining unit should include all those persons employed in the composing room! A. Yes, it is:

Q. And was Section 3 of Article 1 a proposal that all of the work therein described should be done by persons employed in the composing room? A. It certainly was.

Q. Did the Local 165 in the course of these negotiations state to management that they were interested and anxious to procure an approvable contract? A. We did, many times.

Q. At any time did the local union state that they did not wish to reach an agreement? A. No, we did not.

Q. Was the union at all times willing to sign an agreement if appropriate terms could be agreed upon? A. We were then and we are now willing to sign any agreement under which we get the proper protection necessary for the [298] members of our union employed in the composing room of the Telegram and Gazette or any other people employed in the Telegram and Gazette composing room who might come within our bargaining unit.

## [303]

## Cross Examination

[306] XQ. Wasn't there any further discussion of the rising costs and what the union proposal would cost management? A. I think they were alluded to each day of negotiations in management's opening statements.

XQ. It was a substantial item, was it not? A. Beg-

XQ. I said this was a significant item, was it? A. From management's standpoint, yes.

[307] XQ. When you say that an economic issue was of wasn't discussed, are you defining economic issue only from

your point of view! A. Naturally.

XQ. So I take it then that you consider a discussion of the cost of the union proposal not an economic issue? A. I do in my part because they were never definitive in their explanation of where that \$500,000 or that expense of that \$500,000 would occur. For instance, they would never at any time in all negotiations define what they included in page cost which seemed to be the norm from which they draw this \$500,000.

[311] XQ. Now, I believe in the 1956 negotiations, management agreed that any salary increase would be retroactive if the negotiations went beyond January 1, 1957! A. That's true.

[316] XQ. By the way, in the union proposal of 1956, I have reference to Article 1, Section 3; namely, the jurisdictional section, was that language the product of the local's efforts! A. I think I had previously testified that that language was conceived in Worcester, originally sent out to Indianapolis, and asked the legal department or contract department to scrutinize the thing to make any additions or corrections or alterations which would improve the language and to survey it to see if it was in conformity with state and federal law and ITU law and would give us the proper protection which in their opinion we needed.

[317] XQ. Now, I may be mistaken, but I believe you testified yesterday it was always the practice in these negotiations to leave economics to the end, is that correct? A. That had been the practice, yes.

XQ. And to take these other issues, like jurisdiction and laws and things of that kind, first? A. Everything else first.

XQ. Everytehing else first.

Well then, I take it that, if management wished to take that first, that was no variation of practice, is that right? A. Yes, it was. There were many times in negotiations over the many years that I remember where we didn't resolve a thing after three or four meetings and we said well, let's leave it and go on to other things.

XQ. By the way, I believe it was your testimony that right at the very outset management took, to use your words, adamant insistent position that jurisdiction and general laws had to be taken eare of, isn't that right! A. They were surprisingly adamant.

XQ. They were surprisingly adamant, as you say. Why do you say surprisingly? [318] A. Because in the past negotiations, as I remember them, we would take the contract and start at Article 1, Section 1, and go down through each one and get an opinion from management or a counter proposal from management and then go back over it and resolve the issues; but this time, as I well remember, Mr. Phillips took the position it was his opinion expressed for management that he could not, would not get a written contract, and they were insisting on sticking to what he termed the stumbling blocks before we resolved the other issues.

[319] XQ. Did management offer to negotiate the general.

Q. What was the union's answer? A. The union's position was we would negotiate any section into the contract that would give us the protection [320] we had under the laws and would cover any phase covered in the laws.

XQ. No. What was the union answer to the management

proposal to discuss the general laws individually? A. I think I just

XQ. Did it agree to do so! A. We did agree to do so.

XQ. You agreed to discuss or negotiate the general laws individually? A. Not the laws per se we didn't.

XQ. That is what I want. You did not agree to negotiate

the laws per se, is that right? A. That's true.

XQ. And you took a position that you simply wouldn't do so, isn't that correct? A. We took the position that we would have the alternate choice of negotiating into the contract any section that would give us the proper protection that we sought under the laws.

XQ. Well, if you took the position-

Mr. Segal: Let'him finish.

Trial Examiner: Go ahead.

A. Because, if you have read this proposal,-

XQ. Well, I don't want your becauses-

Mr. Van Arkel: Why can't the witness be allowed to.
[321] finish his answer?

Trail Examiner: Let him complete his answer.

A. It is also a part of this proposal, Mr. Kowal, that anything not covered in this agreement, then the laws speak out where the agreement is silent.

XQ. You took the position, did you not, that you would negotiate any of these laws? A. We would not negotiate

the laws per se. .

XQ. Is there some magic to this phrase per se that I don't understand? A. Perhaps if it appears to you to be magic, it doesn't to me.

XQ. Doesn't that mean that you simply wouldn't nego-

tiate the laws individually?

XQ. Don't the general laws of the ITU require that the general laws not be negotiated? A. They do.

XQ. Then certainly you didn't intend to disobey that

instruction, did you? A. I am a member in good standing of the International Typographical Union. I adhere to its laws.

XQ. Now, in November 7, 1956, I think that is the meeting, you opened the meeting by saying, I believe, you testified [322] to this, that the local union had sent you back for an approvable or an approved contract, am I quoting your testimony? A. May I have the notes again, please.

Mr. Kowal: Oh, go ahead, I'm sorry.

A Did you say November 7?

XQ. Yes. A. My notes say November 8.

XQ. Or November 8? A. I think we agreed—now would you give me the substance of your question?

\*XQ. Did you open the meeting by saying the local union had sent you back for an approved or approvable contract?

XQ. And I take it that means a contract approved by the ITU, is that right? A. It could be approvable, yes, by the ITU, yes, that is the reference.

XQ. And did the LTU insist that the general laws be in the contract and the jurisdiction laws, and if so, the contract would be approved, or if not, it would not be approved, is that correct? A. Now, which jurisdiction clause do you mean? The one as it was set forth there or a suitable jurisdiction—

XQ. The one as set forth in Article 1, Section 3. [323] A. I don't understand it to be that way.

XQ. How about the general laws? A. The general laws they did want them in there; but I have known of instances where they weren't required because they were properly covered in the contract.

XQ. Did you ever withdraw your request to the general laws in the negotiations? A. We never acceded to that request by management.

XQ. What was that? A. We never acceded to that request by management that we withdraw those things.

XQ. You never withdrew them at all. . .

How about the question of jurisdiction, did you ever withdraw that demand? A. We did not. We offered to discuss it, and negotiate it.

XQ. Did you ever propose to amend or ever amend your jurisdictional demand? A. We said that we would negotiate into the contract every section to the mutual satisfaction of both parties.

XQ. Did you ever amend the jurisdictional section. Mr, Mahoney, in all these negotiations? A. We had no oppor-

tunity to.

XQ. Did you ever amend the jurisdictional section in all these negotiations, Mr. Mahoney! [324] A. Not to my knowledge.

[332] XQ. (By Mr. Kowal) The chief protest of the union November 8, 1956, was the failure to get a signed and approved contract or to reach one, Mr. Mahoney? A. Our chief complaint was, Mr. Kowal, was we weren't moving toward one.

XQ. You weren't moving toward getting a signed or approved contract, isn't mat right? A. Yes, approvable contract.

XQ. In order to get a signed or approvable contract, you had to overcome this hurdle of jurisdiction and general laws? A. Among other hurdles, yes.

XQ. In order to get an approvable contract, you had to overcome this particular hurdle, is that right? A. Yes.

XQ. The International doesn't give you directions on what wage increases to look for, does it? [333] A. No.

XQ They don't instruct you on such matters, do they!

A. No, except I have heard of cases where we were getting

dangerously low in the national level, that they would instruct you to get up.

Q. Yes, but that wasn't involved here, Mr. Mahoney?

A. No, we were pretty close to average.

XQ. There were no instructions from the international except on the issues I have spoken of; namely, jurisdiction and general laws, isn't that correct? A. Yes.

XQ. And it was clear to you that, if you wanted an approvable contract, you had to reach some agreement with the employer on these issues satisfactory to the ITU, isn't that correct? A. No, that is not quite true.

XQ. Wity isn't it true? A. We had to meet some satisfactory arrangement with management that would give us what in their opinion was proper protection under contract,

XQ. And whose opinion? A. The ITU's and the local union's.

[334] XQ. On the question of whether a new process was or was not composing room work, did Mr. Phillips at any time in November of 1956 offer to arbitrate that issue? A. Yes, he did.

XQ. What was the union answer! A. We did not wish to arbtirate.

[336] . XQ. By the way, did the local union at any time ask for strike sanction? A. Yes, we did.

NQ. From whom did you ask the strike sanction? A. International Union.

[337] XQ. Is there any doubt you did ask for it in 1957?
A. No question in my mind that we did.

[339] A. To the best of my knowledge, yes.

Now, I believe that after this announcement, Mr.

Hanson [340] did grant the union's request for slide day, vacation pay, and jury pay? A. Mr. Hanson said at that time, if it was the same meeting, where he was discussing what management's intentions, management's intention of posting conditions of employment, that that would be included in their conditions of employment.

XQ. I mean, didn't the union request these things? A. That was in our proposal, yes.

A. No, not specifically. I can well remember that my argument to Mr. Hanson was that we strenuously objected to this method of negotiations and that in their counter proposal that they had offered us some fringe benefits, and then here in a deliberate and unilateral posting of conditions of employment they were snatching them away; and Mr. Hanson said, well, I think he said, I think this is about what he said, well, that is just an oversight on our part. If management has promised those things to you, management will go through with them; but he then went on to say that all the other things about priority, etc., would make the thing too lengthy and too difficult to post.

[342] XQ. Now, I believe then you said that you sent a couple of letters to the employer seeking to reopen negotiations on what, Mr. Mahoney! A. Seeking to reopen negotiations on this proposal.

XQ. On the union proposal? A. Yes.

XQ., Now, I show you what appears to be a copy of the first letter you sent. I may be wrong. The first letter you sent to the employer after February 8, 1957, which is General Counsel's Exhibit No. 8, dated September 6, 1957, and call your attention to the phrase, the union strongly desires to meet as soon as possible to discuss what it believes to be serious alterations and conditions in the [343] composing room. That wasn't a request to resume negotiations

about the contract, was it, Mr. Mahoney! A. You mean the letter itself!

XQ. Yes. A. Oh, yes, it was.

XQ. Why didn't you say so? A. It says in the first paragraph, and I read from GC-8, Worces er Typographical Union hereby requests a meeting between the representatives of the Worcester Telegram Publishing Company and the scale committee of the union for the purpose of continuing negotiations toward a complete agreement.

XQ: Well, apparently, you wanted to discuss some serious alterations and conditions in the composing room, is

that also correct? A. Yes, we certainly did.

XQ. And were these serious alterations in the composing room the reason that you sought to resume negotiations? A. The reason I sent the letter was because I was under instructions by the union to resume negotiations toward a complete agreement.

XQ. Because of the serious alterations and conditions in the composing room? A. No, because they still desired a written contract under which we could work and understand management's position and [344] management understand the union's position.

XQ. Then I believe you said that you sent two letters to Mr. Booth, September 6, 1957, and September 27, 1957, and that Mr. Booth promised after you asked him whether or not silence indicated a refusal of bargaining, he promised to sit down and bargain with you, is that right? A. No, I didn't say that.

XQ. What did you say? A. I said I had to make a telephone call to Mr. Booth.

XQ. Yes? A. And asked him if his silence could be reported to the union as refusal to bargain, and he said no, he said he would take the matter up with Mr. Steele. He did not at any time sit down and bargain with us or was

he present at the bargaining sessions on this proposal. He was represented by Mr. Steele and Mr. Phillips.

XQ. Did you then have a conversation with Mr. Steele?

A. I did.

XQ. And didn't you testify yesterday that Mr. Steele told you that he wanted to qualify the answer given by Mr. Booth! A. He wanted to qualify in advance what would be contained in the letter I received from Mr. Booth in the very near future.

XQ. Qualify in advance the letter that you received from [345] Mr. Booth, is that correct? A. That's correct.

XQ. What was there about that answer that Mr. Steele wanted to qualify to you? A. As I testified yesterday, Mr. Steele asked me to go to [346] his office after the working day was completed, and he told me I was to receive a letter from Mr. Booth, and he said the reason they took the position they did was they felt that the jurisdiction, the ITU laws were still going to be stumbling blocks, he assured me they still had no intention of putting in any new processes except the teletypesetter they had then, and he used those as qualifying reasons for sending this letter; and I said with Mr. Steele and I listened to him and discussed the matter with him, and I said the union still has to negotiate, and he said, of course, at any time we are willing to negotiate.

[351] Mr. Kowal: Could I see your notes again, Mr. Ma-

honey.

XQ. (By Mr. Kowal) I believe you testified yesterday as to the meeting of November 26, 1957, and I am reading your notes, that Mr. Lyon says that, if the strike occurs, [352] it would be by individual action of local members, as they are not satisfied with conditions. Was that your testimony? A. Yes. May I see my notes.

XQ. Yes. A. Well, that portion of Mr. Lyon's reported quotation is correct, but—

XQ. You can read the rest if you wish, if you think I am distorting. A. According to my notes, Mr. Lyon said, if the strike occurs, it would be by individual action of local members as they are not satisfied with conditions. They desire to negotiate a contract, and the union will give plenty of consideration to both sides.

-XQ. Am I to understand, Mr. Mahoney, that it is only the individuals who are striking here and not the local? A. Beg pardon.

NQ. Am I to understand or are we to understand that it is only the individual members who are striking here and not the local? A. No, it is the local union who took the action in formal session.

XQ. So that this statement that individual members are striking is in a sense incorrect, is it not? A. I wouldn't say so.

XQ. What authority did Mr. Lyon have to make such a statement [353] as to what the local or how the local was going to strike? A. Well, because Mr. Lyon had conferred with the local people.

NQ. Did the local confer authority on Mr. Lyon to speak for the local? A. They did.

[355] XQ. At this meeting at November 27, did the union ever tell the employer in this meeting why it was bidding it good day? A. No, it did not:

XQ. Did the union ever bring up the O'Toole matter, so-called, in this meeting of November 26-November 27!. A. I don't recall bringing it up at that time.

NQ. Was the O'Toole matter a strike issue? A. A violation of the priority section of the contract could be termed an issue in the strike.

XQ. Could be, you don't seem to be very, shall I say, interested in that. Was it a strike issue? A. Let me say

then that the priority section of the contract was one of the conditions of the strike.

XQ. I take that to mean that the O'Toole matter was not an issue in the strike? A. The O'Toole matter, if you want my opinion—

XQ. Yes. A. The O'Toole matter, in my opinion, was

Typographical Union voted to strike.

XQ. And did the union ever tell that to the employer?

[356] A. We never land opportunity to.

• XQ. Never had an opportunity to tell the employer that the O'Toole matter was a serious and significant thing!

A. We had told, you asked me first if we had ever told management that that was the primary reason why the members voted to strike!

XQ. Yes? A. We never told them that.

XQ. Whe not? A. Now, to go on to your second question.

XQ. Why not? A. Because we had never had a strike vote up until the time of November 27, and we were never asked to analyze, as you have asked me today, why the union struck and what was the primary reason for the union to strike. However, I did in private conversation with members of the management since the strike had begun express the opinion I expressed to you today that that was the primary reason why the men of the union and one we man member of the union had voted to strike.

XQ. Was it solely because of the inexperience in strike matters that the union hadn't communicated this O'Toole matter to the employer before the strike! A. The O'Toole matter was in the process of a joint standing committee process to adjudicate the fact; and [357] management had not made up their mind from what source they would get an arbiter, and we had reached that portion of that phase of joint standing committee procedure. They knew

of the affair. It was thoroughly discussed. We had had a number of meetings as a joint standing committee on it. We had come to no successful conclusion, and we were at the point even to the point where I had my brief prepared for the arbiter,

AQ. Now, in the meeting of February 8, 1958, with Mr. Steele and others, Mr. Steele testified that you said to him that whatever you did here had to be cleared by the international. Did you say that? A. I don't recall using those words, no.

XQ. Did you use any words like it? A. Oh, I probably said that we certainly would consult with the international.

XQ. Isn't it true that anythic out did by way of negotiations on February 8, 1958, and to be cleared through the international? Λ. It was not mandated that it be cleared.

XQ. It didn't have to be cleared. Let me put it this way: Did it have to be cleared or didn't it have to be? A. I don't believe so. We still had local autonomy in this matter.

NQ. What matter? [358] A. The settlement of the strike and arrival at the contract.

XQ. You have local autonomy as to the matter of arriving at the issues of jurisdiction and the general laws without clearance with the ITU? A. We certainly do.

Mr. Kowal: You have that transcript here? Can I look at it? Oh, I'm sorry, I have it.

Just a minute, sir. I am hunting for something.

NQ. (By Mr. Kowal) Now, I am quoting from the testimony of Mr. Randolph in another case, and it reads as follows: Local unions must send to my office any proposed contract for review before they are presented to employers in order that we may screen it and keep it in accordance with our own laws and the civil law. Then, after negotiations, they must again submit it for screening to see that it is still in compliance with our laws and with civil laws.

before they may finally agree to it and sign it with the

employer.

And I ask you again, Mr. Mahoney, whether or not in any way that refreshes your memory as to whether or not the local had to have any agreement reached with the employer screened or approved by the ITU! A. It is my understanding of it, Mr. Kowal, that, in order to be approved by the international union, they must be submitted before submission to the management and after [359] agreement with management before they can be approved by the international union. That is my understanding of the matter.

A

[371] Trial Examiner: I will sustain the objection:

XQ. (By Mr. Hanson) After the mediators had conferred with management, did they go back and report to you what [372] management said? A. Excuse me for a moment. Are we still on January 30?

XQ. January 30. A. Yes, they did.

XQ. Did the mediators report to you that management had stated that it would not accept those three proposals, but that the union could have a fair and equitable contract in all respects if it would yield on those! A. I can well remember Miss Weinstock and Mr. Braker coming back and saying that management had said no to the jurisdiction and the general laws clause. I have no recollection of the foreman being an issue at this time; and that they said in substance that you would be willing to give us what you considered to be a fair and equitable contract if we did withdraw those demands.

[374] A. I can well recall telling the mediators that we had asked for strike sanction; and, if we received it, there was a good possibility that a strike might occur. Now, I want you to understand that at the time these meetings

were going on, we did not have strike sanction, and it would be economically impossible for us to strike without sanction. We have to eat you know.

[376] XQ. Yow, in the further conference with the mediators that day, did they tell you that insofar as management was concerned, an approved contract covering foremen, union laws, and jurisdiction clause was out? A. I don't remember the foreman, but I do remember the general laws and the jurisdiction.

XQ. Now, Mr. Mahoney, wasn't there a great deal of discussion about union foremen from time to time in these negotiations? A. The only discussion we had, Mr. Hanson, I think was when we were comparing your counter proposal with the union [377] proposal in an attempt to negotiate section for section, one into the other, and I think we pointed out how unfair to the foreman your counter proposal was.

XQ. In what way was it unfair? A. We were specifically fearful—

XQ. In what way was it unfair? A. I am trying to answer that. We claimed that we were particularly fearful that there was something in that counter proposal that said, if the foreman was discharged as foreman, there would be no obligation on the part of management to retain him as an employee. I believe that's in there some place, and what existed at the time of the contract negotiations was that the foreman, providing he had been an employee of the composing room prior to his elevation to the office of foreman, would retain his regular priority spot; and, if he were reduced in rank, that he would continue to maintain his priority spot, and he would continue to be employed in proper priority order in the composing room. And we were fearful that your counter proposal would not protect the gentleman who happened to hold that office if you decided

to reduce him in rank. And that to me was the discussion I had with you on that.

[379] XQ. (By Mr. Hanson) Mr. Mahoney, just before the recess I asked you to read company's counter proposal on the union foreman. Have you found it in the exhibit. A. Yes, I have.

XQ. Will you read it, please? A. This is General

Counsel No. 5, Article 4, Section 8.

XQ. Yes. A. All work, you want me to read the whole thing?

[380] XQ. Now, I ask you what was the objection the union stated if any to that provision in the last two paragraphs of the section you just read? [381] A. The union interpretation of that, those two paragraphs, resulted in the union objecting on this premise; that we were fearful that under this section of your proposed contract that the foreman would lose his priority standing within the bargaining unit. We felt that it would not give us the proper protection or a protection similar to the protection which the foreman had in the practices existing in the composing room as of that time.

XQ. And you so stated that objection? A. I did, or we did.

[383] XQ. Do you recall whether or not the union expressed the desire to discuss but asked specifically not to be held to an agreement to negotiate on the printed notice! A. I remember that you, Mr. Hanson, offered us the opportunity to discussion, and upon our objection that it might be construed as negotiating, that you assured us that you would not hold us to any contract or agreement, and nothing would bind us.

[384] XQ. And thereafter what happened? A. And

thereafter there ensued what might be termed a discussion of the intentions of management in the posting of this notice of employment, and the expression by the union that. we were being given in a counter proposal certain economic clauses and then having them snatched away from us, that there was a great fear on the part of the union that the priority rights of our employees in the composing room would be violated. There was nothing to assure us there would be no violation; and, when we mentioned these things. you expressed for management that you had no intention of destroying any priority rights, you would not alter the practice; and if I may now refer to my notes, you said that notice would not bind the union, as the union will not be asked to approve or disapprove and that priority will continue. You also said that you were willing to avail yourselves of the joint standing committee procedure, and you said that management would appreciate, does appreciate the position of both sides, and you said also that management would discuss the introduction of any new process grall new processes before the installation of the processes.

[385] XQ. Who was Mr. LaMothe! A. Who was Mr. LaMothe!

NQ. Yes? A. Mr. LaMothe was the answer to our request to Mr. Randolph for assistance in trying to negotiate the contract. He was the New England or area representative of the International Typographical Union; and Mr., LaMothe told us that he represented Mr. Randolph by

XQ. Do you recall whether there was any discussion of machinist apprentices? A. I can very well remember that Mr. Phillips, I think, injected that, and one of the union committee, if I can remember the term he used, I think it was Mr. LaMothe, said that Mr. Phillips was

throwing flies in the ointment, and that we did not wish

to expand the ratio of apprentices.

XQ. Didn't Mr. Mahoney say something about apprentices, machinist apprentices? A. Whenever apprentices are mentioned, Mr. Hanson, I am most interested in them, and there is no question in my mind I must have said something.

XQ. Well, didn't you say in fact that, if the day ever comes for the need of a machinist, that the union cannot supply a satisfactory man, the union will allow the company to [388] introduce a man ont of priority? A. Oh, I think that I referred to times when that did occur and the union did allow people out of priority to come in there. I don't think that I made any promise in the name of the union that that would be a hard and fast practice.

[391] XQ. When did you ever refer to employees in the composing room rather than union members in these negotiations, Mr. Mahoney! A. To the best of my recollection, I referred to them many times.

XQ. Didn't you also refer frequently to members of your union and the protection you wanted to give to them?

A. Not to my recollection.

XQ. You never referred to try and protect the members

of the union? A. I don't think so.

XQ. Did you want to protect them? A. Of course I wanted to protect members of my union wherever I had the opportunity to protect them.

XQ., All right.

Now we come to the next thing, do you recall Mr. Hanson saying definitely that the seniority and priority practices will continue! A. Yes, I do.

XQ. What is the difference between seniority and priority, Mr. Mahoney! A. Well, in the printing industry, that is in union circles, we refer to it as priority because it is a

historical term, and we have never departed from it for the

use of seniority: There is no difference.

[392] XQ. On that point I believe you referred to some-body yesterday that had priority in a certain competency, but was assigned to another job in which he had no competency whatsoever, is that correct? A. No, I didn't say that.

XQ. In which he was not competent? A You said he had priority in one competency. There is no such thing as competency priority in the Telegram-Gazette composing room. It was what is known as a vertical shop, where you maintain one priority for all phases of the composing room work. You are hired as an employee of the composing room without defining whether you are an employee of the composing room with competency or priority in any given branch of the work of the composing room.

XQ. Well, hasn't it been the contention of the ITU that the journeyman printer is competent at any branch of the trade! A. I have never heard them contend that.

XQ. You never had? A. No.

XQ. Does it take six years to make just an ordinary printer rather than one that is competent in the whole field! A. Mr. Hanson, when we spend six years with an apprentice, we make more than just an ordinary printer out of him, we make a finished printer. The only limitations are within the limitations and the machinery and the shop in which he [393] serves.

NO. And presumably, if he has journeyman status, he can serve at any of the phases of the operation in that shop! A. That is what we ultimately hope to attain. Unfortunately, in the Telegram-Gazette composing room Mr. Madden did all he could to retard the training of some of those.

[395] XQ. You were the spokesman for the scale commit-

tee at that meeting, were you not, Mr. Mahoney! A. I was not.

XQ. Who was! A. Mr. Quinn.

XQ. Did you inform the union at that time that you were not able to get strike sanction? A. Mr. Quinn did, yes.

XQ. Did you tell them, absent these provisions that you wanted, the posted notice appeared to be fair? A. Would

you repeat just the first part of your question.

XQ. That absent foreman clause; the jurisdictional clause, [396] and the union laws clause which you had sought, that the other conditions in the posted notice appeared to be quite fair? A. I think that's reasonable, yes, I think that's reasonable.

[402] Mr. Hanson: May I have just a minute, please?

That will be all, Mr. Examiner.

Trial Examiner: I notice your exhibit, Mr. Hanson, is not accompanied by a duplicate. Is it possible to get a duplicate of that?

Mr. Hanson: Yes.

Mr. Segal: We have sent for the entire issue.

Trial Examiner: Do you have any redirect!

Mr. Segal: I have a few questions.

Redirect Examination .

Q. (By Mr. Segal) Mr. Mahoney, I understand in this recent negotiation Mr. Phillips raised some question on legality, is that right? A. Yes, he did.

Q. As a matter of fact, in the contract that expired in '54, was Mr. Phillips present in negotiations of that contract! [403] A. Mr. Phillips has been present at negotiations as long as I can remember, and that was prior to '54.

Q. Did he ever raise any question at prior negotiations on the inclusion of ITU laws or foreman? A. No, I don't remember any.

- Q. So the first time you recall any question being raised on this was in the current negotiations by the company? A. Yes.
- [407] Q. (By Mr. Segal) Let me go to another area, Mr. Mahoney. In the Union proposal which is General Counsel Exhibit No. 2, do I understand there were proposals on priority? A. Yes, there were.
  - Q. Were there proposals on the foreman? A. Yes.
  - Q. Were there on competency? A. Yes.
  - Q. Jurisdiction? A. Yes.
  - Q. Apprentices! A. Yes.
  - Q. Substitutes? A. Yes.
- Q. Are these matters also covered in the ITU laws? A. Yes, they are.
- Q. Now, is there a provision in the proposals which provides that, if it is covered in the contract, then, of course, that governs? A. Of course.
  - Q Contrat governs! A. Yes.
- [408] Q. (By Mr. Segal) Did you ever have a contract with the Worcester Telegram-Gazette, that is Local 165, that was not approved by the international? A. Some years ago, we did, yes. They were spasmodic, we'd have one and we wouldn't have one; and then we'd have one.
- Q. (By Mr. Van Arkel) On redirect, I believe, in answer to questions which Mr. Kowal asked you, Mr. Mahoney, there was some discussion of a claim by Mr. Phillips that Mr. Lyon had insisted that jurisdiction be settled in these negotiations before other matters were discussed. Was it correct that Mr. Phillips claimed that Mr. Lyon had taken that position! A. Yes, it was.
- Q. Had Mr. Lyon in fact taken that position? [409]
  A. I don't remember him taking that position, Mr. Van

Arkel. As I said in previous testimony, I told Mr. Phillips that he had taken that out of context from some of Mr. Lyon's remarks.

- Q. I wonder if you would explain what you meant by the language out of context as you used it before? A. Well, if I may be permitted to go back some time, Mr. LaMothe was meeting with the members of the Worcester Typographical Union scale negotiating committee, and he was taken ill, and we had been in negotiation for some number of meetings, I don't remember how many meetings; and because we had another meeting scheduled and Mr. La-Mothe was not available, Mr. Lyon was sent in to substitute for him, and Mr. Lyon began to take up the subject of jurisdiction, and if I remember, this is a long time back, if I remember rightly, Mr. Lyon said we should try to resolve these things as we went along, and in the government exhibit there you will see that the jurisdiction clause is early in the proposal, and we hadn't got by that the one day Mr. Lyon was there, and he said that, because he was there merely pinch-hitting that he would prefer to resolve that thing first because he might not be back, and after Mr. Lyon left town and Mr. LaMothe came back, Mr. Phillips then kept insisting to Mr. LaMothe that, as he said, Toby put you on the hook, he said that you couldn't talk about [410] anything else but jurisdiction until jurisdiction resolved, was resolved, and each time that Mr. Phillips said it, each member of the scale negotiating committee took issue with him on it.
- Q. Now, you also testified on redirect, Mr. Mahoney, that you had stated that you were not willing to negotiate the general laws of the ITU per se. Could you explain a little more for the record what you meant by your use of the expression per se? A. Well, I think perhaps, if I can explain that as briefly as possible, we were and are willing to negotiate the subject matter of any general law into the

contract, but to take the book of laws and sit down and negotiate and say we will negotiate law No. 1, whether it applies to the contract or not, we would not do that; we would negotiate the subject matter of any one of those laws into a contract.

Q. And was that statement made by you in the course of these negotiations! A. I believe it was.

Q. Now, you also testified about the negotiations which took place with respect to the clause section 3 of Article 1 of this agreement, at any time did the union or any representative of either local union or the international union state that this language would have to be adopted [411] verbatim! A. I recall none. As a matter of fact, I recall saying that we were willing to negotiate language covering the local situation.

Q. Now, I believe in one of the exhibits in which you asked the negotiations continue in September of 1957 you stated that you also wished to discuss with management some serious conditions existing in the composing room, is that correct? A. Yes, I did.

Q. Could you tell us what those serious conditions were? A. The conditions which were bothering us at that time were violation of priority rights, the refusal of the foreman to do business with the union representatives in the composing room which necessitated he and I running down to Mr. Weinrich from week to week because Mr. Madden, the foreman, refused to talk to Mr. Fitzgerald, the chairman. Now, for years and years in that composing room, the chairman was recognized as the union's representative; and Mr. Madden refused to do business with Mr. Fitzgerald, the chairman; and then, of course, I mentioned the O'Toole case where there was a violation of priority, and Mr. Madden had on a number of occasions told Mr. Fitzgerald and told me that he could do as he pleased because there was no contract, and we would also have to run to

Mr. Weinrich to say you, [412] as mechanical superintendent, will you please see what you can do to straighten this situation out; and when it became a persistent practice of Mr. Madden to do as he pleased regardless of all commitments by management or the union or all previous practices or habits, then we felt that conditions were deteriorating to a dangerous stage.

Q. You stated, I believe, Mr. Mahoney, that in the past the Worcester Typographical Union had signed contracts with the Worcester Telegram Publishing Company which were not approved by the International Typographical

Union? A. Yes, I did say that.

Q. Was any sort of disciplinary action taken against Worcester Typographical Union or any of its members when that occurred! A. No, there was not.

## [415] Recross Examination

XQ. (By Mr. Kowal) This contract that you spoke about as not being approved by the ITU, when was that executed, Mr. Mahoney! A. I think around 1944 or so, '45. Again I'd have to go back over records.

[420] XQ. Just one more question, Mr. Mahoney. This business of Madden, where you say Madden had disregarded the chapel chairman, was that a cause of the strike, too? [421] A. I don't know. I wouldn't say yes or no to that. I would say that it was a contributory factor to the feeling of the men being so aroused that they you to strike.

XQ. So it was a contributing cause? A. In my opinion.

XQ. Did you ever tell management that? A. I think yes.

XQ. When A. I think at the conference table, and I

think in private conversation with members of management since the strike, that & told them that.

XQ. (By Mr. Hanson) Is Mr. Madden still a member of the union? A. Mr. Madden, as far as I am concerned, has never been taken from the union rolls or been discharged from membership of the union; as far as I know, he is still a member of the union.

Mr. Hanson: That is all.

Trial Examiner: Did there come a time when you [422] obtained sanction from the ITU for your strike of November 20.2

The Witness: Yes, sir.

Trial Examiner: And yesterday you stated the number of employees of members that were on strike. How many journeymen were out?

The Witness: 185 journeymen, 10 apprentices.

Examiner, that the testimony of Woodruff Randolph and the exhibits, which were introduced in the course of his testimony in the matter of News Syndicate Company and Burton Randall and the Publishers Association of New York City, Cases 2-CA-4967, 2-CB-1769, 2-CB-1807, extending from pages 470 to 637 of that record, together with the testimony of Harry S. Duffy, in that same case, beginning at page 1071 of the record and concluding at page 1081, stand in this record as if introduced therein without the necessity, however, of physically offering the transcript and to exhibits into the record.

[432] Frial Examiner: All right, the stipulation may be received in evidence.

[454] Mr. Kowal: Sir, this morning we had a discussion about stipulating the record before Judge Aldrich in the Haverhill case as the record in the Haverhill phase here. And, after discussion and reflection, I have concluded that I am willing to stipulate that the entire transcript and record before Judge Aldrich stand for the record as to the Haverhill complaint in this case.

I have several exhibits-

Mr. Segal: Excuse me, may I interrupt.

Mr. Kowal: Yes.

Mr. Segal: Including the exhibits in that case and the offer of proof.

Mr. Kowal: The entire record, and everything else that exists. The only difficulty—may we go off the record?

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

Mr. Kowal: By the record before Judge Aldrich I mean the entire record, including all motions, all rulings thereon, and so forth. My Brothers and I have agreed that [455] certain exhibits be introduced in the Haverhill phase of this case. Some of them will be duplicates of what was already introduced before Judge Aldrich, so that we need not get these before you again.

[459] These are other contracts of local unions affiliated with the International Typographical Union insofar as the jurisdiction clauses are concerned, and we offer these for a variety of purposes; and I wonder if it might be agreeable to all parties, I think it would be a convenience to the Examiner and to the Board if the jurisdiction sections of these agreements can be copied right into the record. They are not unduly voluminous.

Trial Examiner: Rather than putting in the whole con-

Mr. Van Arkel: Rather than putting in the whole contract, if just these paragraphs could be copied in; and, if I may, I'd like for the record to state which contracts and, which sections I am offering.

Trial Examiner: All right. Go ahead.

Mr. Van Arkel: The First would be Section 2 of an agreement between Boston Daily Newspapers and Boston Typographical Union Xo. 13 in effect January 1, 1957, through December 31, 1958, which begins at page 2:

"Section 2. Jurisdiction of the Union and the appropriate unit for collective bargaining is defined as including all composing room work and includes classifications such as: Hand compositors; typesetting machine operators; makeup men; bank men; markup men; proofreaders; machinists for typesetting machines (whether hot-metal or photo-composition); operators and machinists on all mechanical devices which cast or compose type, slugs, or film; operators of tape perforating machines and recutter units for use in composing or producing type; operators of all photo-typesetting machines (such as Fotosetter, Photon, Linofilm units including Linofilm composer, Fotomas; ter, Monophoto, Coxhead Liner, Filmotype, Protype, Typro and Hadego); employees engaged in proofing, waxing and paste-makeup with reproduction proofs, processing the product of phototypesetting machines, including development and waxing; paste-makeup of all type, hand-lettered, illustrative, border and decorative material constituting a part of the copy; ruling; photo-proofing, correction, alteration, and imposition of the paste-makeup serving as the completed copy for the camera used in the plate-making prior ss. Paste-makeup for the camera as used in this paragraph included all photostats and prints and all photostats and positive proofs of illustrations (such as Velox) where photostats or positive proofs can be supplied without sacrifice of quality or duplication of [462] effort. The Employ r shall make no other contract covering work as described above, especially no contract using the word "Stripping" to cover any of the work above mentioned.

"The term photo-proofing referred to in this section does not cover the duplication processes such as the ozalid or similar copying devices when used for other than composing

room production,

"It is recognized that heretofore a certain amount of socalled pasteup from reproduction proofs of type set in the composing room was done-outside the composing room but the assembly of said type was performed in the composing room as provided in Section 42. This said so-called pasteup now falls in the classification of paste makeup specified in this contract in Section 2 and will be performed under the terms of this contract as soon as deemed practicable by the Publisher and proper equipment is installed on which employees covered by this contract may perform it. It is agreed that all products of any photocomposing machines or devices shall be completely processed solely by employees covered by the terms of this contract.

"It is recognized that such machines as the Linofilm, Monophoto and Fotosetter involve different auxiliary machines and different steps toward completion of copy to the point of making plates thereof. It is agreed that each and [463] every such step or auxiliary machine is under the

jurisdiction of the union.

"To the extent one Filmotype is now being used in one art department to substitute for creative art work and not as a duplication or substitute for type faces and type set in the composing room it may continue to be so used.

"Unless otherwise permitted by the reproduction sections of this agreement, no substitute operation for present methods of production of matter printed in the newspaper shall be performed outside the jurisdiction of the Union, but this in no way limits the rights of the Publishers to use uch substitute operations outside the jurisdiction of the Union for the production of matter not printed in the newspaper. Should any strike or work stoppage occur during the term of this contract, the Publishers thereby will be relieved of the prohibition against the use of the substitute processes or operations. The Union agrees, upon the request of the Publishers, to use all means within its power to provide at all times a sufficient number of employees necessary to efficiently and adequately operate the equipment of the composing room.

"Nothing in this section shall be construed as abridging in any manner the right of the Publisher, at his option, to have installations made by experts, nor to interfere with the temporary services of qualified and [464] experienced inspectors and repairmen."

The second would be Section 1 of a contract between the Knoxville Daily Newspapers and Knoxville Typographical Union No. 111:

"Section 1. Jurisdiction of the Union and the appropriate unit for collective bargaining is defined as including all composing room work and includes classifications such as hand compositors, typesetting machine operators, makeup men, bank men, poofpress operators, proofreaders, machinists for typesetting machines, operators and machinists on all mechanical devices which cast or compose type or slugs, or film, operators of tape perforating machines and recutter units for use in composing or producing type, operators of all phototypesetting machines (such as Fotosets ter, Photon, Linofilm, Monophoto, Coxhead Liner, Filmotype, Typro, Hadego and Protype) and employees engaged in proofing, waxing and paste makeup with reproduction proofs, processing the product of phototypesetting machines, including development and waxing; paste makeup of the type, hand lettered, illustrative, border and decorative material constituting a part of the copy; ruling; photoproofing; correction, alteration, and imposition of the paste makeup serving as the completed copy for the camera used in the plate making process. Paste makeup for the camera as used in this [465] paragraph includes all photostats and prints used in offset or letterpress work and includes all photostats and positive proofs of illustrations (such as Velox) where positive proofs can be supplied without sacrifice of quality or duplication of efforts. The Publishers shall make no other contract covering work as des cribed above, especially no contract using the word "stripping" to cover any of the work above mentioned. In this connection it is recognized that the word "stripping" described certain processes of the photo engravers' trade.done in the photoengraving room after the camera in the photoengraving room as photograpaed a product sent to that department, and that the paste makeup of type, cuts and other matter as described in this section either in film or paper from phototypesetting machines (such as Fotosetter, Photon, Linofilm, Monophoto, Coxhead Liner, Filmotype, Typro, Hadego and Protype) or reproduction proofs on paper or transparencies is composing room work to be done under the terms of this agreement before the product is sent to the photoengraving department.

"The fact that a limited amount of ads have heretofore been paste madeup by an advertise, and a limited amount of feature page and promotional paste makeup has been done in the art department shall not abrogate any of the provisions of this agreement. Until such matters may be changed without [466] jeopardizing the business of the publisher no change will be made as to said limited amount of paste makeup done elsewhere. The volume of such work shall not be increased.

"The publishers agree to supply full opportunity to journeymen or apprentice members of the union to become proficient on paste makeup and its attendant processes on adequate equipment and the union agrees to supply partially trained journeymen or apprentices for that purpose."

The aext would be Section 2 of a contract between the Courier Journal and Louisville Times Company and Louisville Typographical Union No. 10:

The jurisdiction of the Union and the appropriate unit for collective bargaining are defined as all the composing room works of the Publisher; and it includes not only the conventional and historical type of work but also all phases of photocomposition and composition by tape or card-operated composing machines.

The jurisdiction includes classifications such as hand composition; make-up; assembly; bank operation; markup: proofing; making of reproduction proofs or type on paper or transparencies; proofreading; correction; operation of typesetting and linecasting machines; operation of machines and mechanical devices which cast or compose type or slugs; operation of photolettering, phototypesetting [467] and photocomposing machines which product photographic images of type on film or photographic paper (such as Fotosetter, Photon, Lingdian, Monophoto, Coxhead Liner, Filmotype, Typro, and Hadego), tending, monitoring and operating machines and equipment casting type or slogs or producing photographic images of type as a result of being actuated by perforated type or cards; operation of machines which perforate tapes or cards, and the machinist function for all machines which cast or produce type, slugs, paper or film.

demonstrate their competence to service, maintain and repair composing room equipment with which they are not familiar, the Publisher may use qualified persons for such work. However, employees will be allowed reasonable opportanity to familiarize themselves with such equipment.

The Publisher shall make no other contract covering

work as described therein, especially no contract using the word "stripping" to cover any of the work described herein.

"Such composing room work of the Publisher shall be performed only by employees covered by this contract. However, nothing herein shall limit the right of the Publisher to perform any operation outside the provisions of this contract if the product of such operation is not [468] printed in any newspaper or sold commercially; nor shall anything herein limit the right of the Publisher, at its option, to have installations made by experts.

The Publisher agrees to supply full opportunity to journeymen and apprentice members of the Union to become proficient on new composing room processes and the attendant equipment; and the Union agrees to supply partially trained journeymen and apprentices for that purpose.

"A. Insofar as phototypesetting and photocomposition are concerned, the jurisdiction included the following:

"a. The operation of photolettering, phototypesetying

and photocomposing machines or devices.

"h. The operation of equipment or devices for the composition, imposition, ruling, waxing, paste make-up, or assembly of photocomposed type.

"c. The operation of equipment or devices for the mak-

ing of proofs of photo composed type.

"d. The processing, developing, and conversion of products derived from phototypesetting or photocomposition machines or equipment into positive or negative, opaque or transparent form.

The assembly, sub-assembly, or make-up, including a the combining of said product with reproduction proofs, hand-lettered, illustrative, border and decorative material constituting a part of the copy, in accordance with layout [469] and mark-up instructions, of the various components of advertisements, portions of advertisements, pages or

portions of pages of news features, or advertisements or combinations thereof. This work may include components in the form of the products of photocomposition or of reproduction proofs of metal type or of combinations of these forms.

The proofreading, correction, and revision of any of the photocomposed products.

"g. The making of proofs for purpose of correction and revision and for providing editorial and advertiser proofs in the quantities required.

Th. As some paste-makeup of ads for rotogravure sections is done in the advertising department, this work will not be expanded and any increase in this work shall be channeled to the composing room.

B. Insofar as eletypesetter, or other equipment easting type or slugs, or producing photographic images of type as a result of being actuated by perforated tape or perimated cards is concerned, the jurisdiction includes the following:

The tending, monitoring, and operation of machines and equipment easting type or slugs or producing photographic images of type as a result of being actuated by perforated tape or perforated cards; provided that no employee shall be [470] required to tend or monitor more than three (3) such machines at one time.

The operation of all machines, both keyboard and the perforating units, of the Publisher for perforating tape or cords for actuating typesetting equipment:

ment and all copy received in tape tem over regularly leas d wires of Associated Press, United Press and International News Service may be used by the employer; except that in the event tape is received over the aforesaid leased wires which constitute the writings of persons for which extra charge must be paid because of their being construed

as special or syndicated writers, then tape on such special or syndicated writers may not be used. Tape received from

other sources may not be used.

"C. The Union will, at all times, use every means with in its power to provide upon request a sufficient number of competent employees necessary to man the composing room and its machinery and equipment efficiently and adequately."

The next would be Section 2 of a contract between the Chicago Daily Newspaper Publishers and Chicago Typo-

graphical Union No. 16:

"Section 2. (a) The jurisdiction of the Union recognized under this contract is defined as all of the composing room work performed by journeymen and apprentices prior to [471] October 21, 1947 (with the exceptions noted in Section 2 (b) hereof) in the composing rooms of the Offices and comprises all of the work performed in the composing rooms prior to October 21, 1947, by: hand compositors, operators and machinists for all typesetting machines, saws, mitering machines, monotype and other materialmaking machines, for Ludlow machines, and for all mechanical devices which cast type or slugs, make-up men, bank men, proofreaders, mark-up men; bank men; copy cutters; proof press operators; and any other work performed in the composing rooms of the Offices by journeymen and apprentices prior to October 21, 1947 (with the exceptions noted in Section 2 (b) hereof), and the Offices shall make no other contract covering such work, which shall be performed only by journeymen and apprentices.

"(b) The jurisdiction of the Union also includes all work to be performed in the production of material printed

in the newspapers of the Offices by:

"1) Operators of phototypesetting machines such as Fotosetter, Photon, Linofilm, Monophoto, Hadego, Coxhead Liner, Typro and Filmotype; Finployees who process the product emanating from photo-typesetting machines including developing, photo-proofing, proofreading, correction, waxing or use of other adhesives, cutting and paste-makeup;

"3) Employees engaged in proofing, waxing or use of [472] other adhesives, cutting and paste-makeup with

reproduction proofs;

"subject to the limitations hereinafter set forth.

"Paste-makeup is the assembly and makeup by pasting into position of: reproduction proofs of type, illustrative material when furnished to size; the product of phototype-setting machines; border and decorative material (of the kind that is maintained or produced in the composing room from hot metal or which is obtained in sheets or rolls); ruling comparable to the hot metal process such as borders, rules, boxes, column rules, etc.; proofing of the completed pasteup prior to the making of a plate, proofreading; correction and alteration of the paste-up.

With respect to ROP color, rotogravure, and color comic supplements, employees covered by this contract shall perform the setting, proofing, proofreading, correcting of type, and the setting, proofing, proofreading and correcting of the product of phototypesetting machines, and makeup or paste-makeup of all such matter to the same operational point now performed by journeymen and apprentices in each office.

"It is agree that the Filmotype presently located in the art department of any office covered by this contract may continue to be used for the exclusive purpose of producing a substitute for hand-lettered lines. If and when the Filmotype [473] is used to produce any other matter which appears in the publishers' newspapers, it shall be operated, under the Union's jurisdiction.

. "During the life of this contract nothing herein shall prevent the present practices of integrating type matter

with creative or original art work; or with shaded backgrounds, screened effects or reverse cuts; or with material such as maps, charts, graphs and diagrams to be included in the editorial content of the newspapers.

"The contracting parties recognize that prior to the effective date of this agreement there were certain existing practices under which paste-makeup work utilizing illustrative and decorative material and reproduction proofs of type set under the terms of this contract were performed by persons not covered by this contract. Those established practices were used to produce complete ads or sections of ads where the purpose of such paste-makeup was to obtain individual or structure cuts to be incorporated in advertisements to be completed by conventional metal type methods appearing in the several newspapers and in the production of promotional and "speculative advertising" material. Said page-makeup work was performed (i) by outside art studios, by advertising agencies and by advertisers; and (ii) by employees in advertising and art departments of the several offices covered by this contract. Such practices may be continued during the life of this contract subject to the program hereinafter stated. The Union does not [474] relinquish claim to jurisdiction over much of the paste-makeup referred to in item (i), and it is the intention of the offices not to encourage expansion of this practice which currently is minimal.

"When an office decides to introduce phototypesetting machines, it will notify the union 60 days in advance and within 30 days thereafter will install paste-makeup equipment for use by journeyman and apprentices covered by this contract, or paste-makeup equipment will be installed for use by said employees as soon as any ads referred to in Items 3 and 4 below are to be processed by employees covered by this contract.

"The contracting parties have compiled a list of adver-

tising accounts for whom completed pasted up ads have been produced by the Offices in the manner above described and do agree upon the following program with respect thereto during the life of this contract:

- "1) Future ads to be completely made up by the pastemakeup of reproduction proofs of type for an advertiser included on the list of an office may continue to be so produced by such other persons for said Office.
- "2) In the event the phototypesetting process is used to produced future ads for an advertiser included on the list of an Office, all paste-makeup work as herein provided shall be performed in said Office by journeymen and apprentices [475] covered by and working under this contract.
- "3) Should any future ad for an advertiser not included on the aforementioned list of an Office be completely produced by the paste-makeup method, all such pastemakeup work as herein provided shall be performed in that Office by journeymen and apprentices covered by and working under this contract.
- "4) Should any ad heretofore completely produced by paste-makeup method by persons or sources outside any Office covered by this contract be completely produced in an Office by paste-makeup method said paste-makeup work as herein provided shall be performed in that Office by journeymen and apprentices covered by and working under this contract.

"A completely pasted-up ad is one which requires no further composing room work, as herein provided.

"All composing room work as provided in this contract shall be performed only by journeymen and apprentices. The Offices shall make no other contract covering said work.

"The Office retains the right to determine the choice of methods of assembly; that is, by hot type, or by pastemakeup, or (where quality of the product, or time, or

duplication of work is a factor) by photo-engraving pro-

"The parties hereto agree to supply to each other [476] pertinent information which may be helpful in carrying out the terms of this section and to confer relative thereto.

"(c) Janitors, metal smelters, and office boys who carry copy, cuts and proofs to, from and in the composing rooms are not covered by this contract. Office boys on the payroll of the composing rooms shall be under the supervision of the foreman. Such office boys may be used to operate news proof presses under the supervision of the foreman.

"These office boys shall have first opportunity to accept an available apprenticeship, except a machinist apprentice-

ship, when considered qualified by the foreman.

"If an apprenticeship becomes available which might have been filled by an office boy serving in the armed forces, he shall, if, in the judgment of the foreman he qualities upon his return from his original period of service, be given the opportunity to begin an apprentices he by accepting the regular or temporary apprenticeship he might have filled had he not served in the armed forces.

"If such acceptance results in a greater number of temporary or regular apprentices than is permissible under the contract, the office boy last placed in a temporary apprenticeship shall be moved back to office boy status. A total of five office boys shall be all that may be employed in one office at one time. Office boys employed [477] on news proof presses shall be paid not less than 30% of the journeymen scale."

The next would be an agreement between the Employing Printers Association of San Francisco and San Francisco Typographical Union No. 21, Section 8 of the agreement:

"Jurisdiction of the Union and the appropriate unit for collective bargaining is defined as including all composing room work and includes classifications such as hand

compositors, typesetting machine operators, makeup men, bangmen, lineup and lockup men, stonehands, proofpress operators, proofreaders, machinists for typesetting machines, operators and machinists on all mechanical 'ovices' which cast or compose type or slugs, or film, operators of tape perforating machines and recutter units for use in composing or producing type, operators of all phototypesetting machines (such as Fotosetter, Photon, Linofilm, Monophoto, Coxfiead liner, Filmotype, Typro and Hadego); employees engaged in processing the product (either paper or film) of phototypesetting machines, including development, proofing, correcting, waxing and makeup and employees engaged in paste-makeup with reproduction proofs and/or the product of phototypesetting machines. Paste-makeup is the assembly and makeup of the completed copy for the camera used in the platemaking process, including waxing or pasting noto position on flats [478] of all type reproduction proofs, art work, photostats, the product of phototypesetting machines, photographs, illustrations, and hand-lettered, illustrative, border and decorative material; pen ruling; photo-proofing, correction; alteration, and imposition of the completed copy for said camera. The aforementioned photostats, photographs, and the product of phototypesetting machines will be used in paste-makeup when they can be so used without sacrifice. of quality or duplication of effort. Paste-madeup copy must be complete and ready for the camera used in the platemaking process before being sent to any other department. Neither the Association nor any Employer shall make any other contract covering any of the above work classifications. No other contract shall be made using the word "stripping" to cover any of the work mentioned above in the production of the completed copy for the camera used in the plate-making process.

"The contracting parties recognize that prior to the

effective date of this agreement there were certain existing stablished practices and labor agreements under which paste-makeup work utilizing reproduction proofshof type set under the terms of this contract was executed outside the jurisdiction of the Union. Under those established practices said paste-makeup work utilizing reproduction proofs was performed (1) by outside art studios, [479] by advertising agencies and by customers; (2) by employees in the advertising and sales departments of certain employers; and (3) by employees of certain Employers who are covered by a contract with another union. The Union agrees that work now performed under said practices may continue to be so performed during the life of this agreement. However, it is the sincere intention of the Association, the Employer involved, and the Union to cooperate to the fullest and to pursue all realistic approaches in an amicable manner to effectuate the Union's full jurisdiction as set \* forth in this section.

"The Employer agrees that should it become possible to do so that said paste-makenp work from reproduction proofs now executed outside the Union's jurisdiction under the aforementioned circumstances may be transferred to quanified journeymen and apprentices under the terms of this contract; provided, however, the transfer of said work must be accomplished without jeopardizing or impairing the Employer's relations with his customer. Any such work now performed by other employees of the Employer which is not now covered by contract with another union may not be so covered and when found expedient will be brought under the terms of this contract. In the transfer of any existing paste-makeup work to employees covered by this agreement, or upon the institution of the phototypesetting or paste-makeup processes in shops not now using these methods, the Employer agrees that the [480] resulting paste-makeup work and all other composing room work in said processes will be performed by journeymen and apprentices covered by and working under the terms and conditions established by this contract. The employer also agrees in the transfer of any paste-makeup work to journeymen and apprentices under this contract to provide said journeymen and apprentices with adequate equipment and a full opportunity to become proficient on paste-makeup and its attendant processes."

The next would be an agreement between the Employing Fort Wayne Newspaper Publishers, Fort Wayne, Indiana, newspaper publishers, and Fort Wayne Typographical Union, Section 2 (b) of the agreement:

"Tape perforated by employees covered by this agreement and all copy received in tape form over the regularly leased wires of the Associated Press, United Press, and International News Service may be used by the party of first part; except that in the event tape is received over the aforesaid leased wires which constitutes the writings of persons for whom extra charges must be paid because of their being construed as special or syndicated writers, then tape on such special or syndicated writings may not be used. Tape received from other sources may not be used."

PROCEEDINGS

[No. 2-CB-1769].

[No. 2-CL 1807]

[No. 2-CB-4967]

[470] WOODRUFF RAND LPH
called as a witness by and on behalf of International Typographical Union, AFL-CIO, and having been first duly
sworn, was examined and testified as follows:

## Direct Examination

Q. For what period of time have you been president of the International Typographical Union? A. Since July 15th; 1944.

Q. Had you been an officer of the International Union prior to that time? [471] A. Yes, I was secretary-treasurer of the International from November 1st, 1928, until

July 15th, 1944.

Q. Prior to that time, had you held any office in the I.T.U.? A. I had been president of the Chicago Typographical Union for one term, chairman of the night chapel of the Chicago Daily News for several years, and chairman of the newspaper scale committee of Chicago Union No. 16 in 1923 and 1924.

Q. In that connection, Mr. Randolph, do you still hold priority with the Chicago Daily News! A. Yes, I do.

Q. Are you still carried on their priority list? A. Yes.

Q. Have you been throughout these years that you have been an International officer? A. Yes, I have.

Q. Do the by-laws of the International Typographical Union specify the conditions under which officers of the International Union may come into local situations? A. Yes.

Q. Without reading them into the record, what briefly do they provide? A. Article 19 of the by-laws provides that

in cases where there is danger of a strike, the president or his [472] proxy must visit the jurisdiction and try to arrange a settlement before the executive council would consider a request of the local union for strike sanction.

- Q. 's that only at the request of the local union that the International officers can intervene in negotiations? A.
- Q. Pursuant to those provisions of the laws, did you in 1948 come into New York in connection with the negotiation of an agreement with the New York commercial employers?

  A. I did.
- Q. Do you recall about when that was? A. In March, 1948.

Mr. Richman: May we have a definition of "commercial employers"?

- Q. (By Mr. Van Arkel) Would you describe the two branches of the craft, Mr. Randolph! A. We refer to the commercial employers as being those who do what we call commercial printing or job work, magazines and similar publications, and all kinds of matter other than daily newspapers. We refer to the newspaper field as the daily newspaper field.
- Q. And traditionally have collective bargaining relations in the industry drawn a distinction in the making of agreement, between commercial printers and newspapers? A. Yes.
- [473] Q. At the time that you entered these negotiations in New York, the Taft-Hartley Act had become law, had it not? A. Yes.
- Q. Had that raised any legal questions insofar as these negotiations were concerned? A. It-raised a great many legal questions.
- Q. With whom did you meet in the course of these negotiations? A. I met with the joint committees of the union and the employers.

Mr. Richman: Can we have a more specific identification,

please!

The Witness: The committees of the New York Typographical Union No. 6, and the Printers' League of New York City.

Mr. Van Arkel: Do you want the names of those that

were present?

Mr. Richman: No; I just wanted the two groups.

Q. (By Mr. Van Arkel) At some point in the negotiations, did any outside party enter? A. At one time, in an effort to avoid what appeared to be an impending strike, Theodore Keehl, then holding a position of some kind in the office of the Mayor of the City of New-York, intervened and asked to be of help in conducting negotiations in his office. [474] Q. Were those services taken advantage of! A. Yes. We did meet in his office, and it was during the meeting so held that the Printers' League and the Union tentatively agreed on contract provisions other than wages and hours.

Q. Was the employers' group advised by counsel in those

negotiations?

A. Yes, they were.

Q. Did much of the discussion turn on the legal issues which had been raised by the Taft-Hartley Act? A. That is true, yes.

[475] Q. Did you finally succeed in arriving at an agree ment which the Printers' League and you felt to be a lawful

agreement? A. That's right, we did.

Q. I would like to show you this document marked "Scale of Prices for Book and Job Work," effective April 19th, 1948, and ask you if that is the agreement that finally resulted? A. It is.

Mr. Van Arkel: I would like to call the Examiner's spe-

cinc attention at this point in the record to Section 4 of this agreement, found on page four, [476] particularly the definition of journeyman contained at the bottom of page four and at the top of page five.

Q. (By Mr. Van Arkel) Mr. Randolph, subsequently did you again have occasion to come to New York in connection with negotiations with the newspaper proprietors? A. Yes, I did.

Q. Was that in that same year? A. That was in the same year.

Q. Do you recall when? A. Approximately in July...

Q. Was that pursuant to the same provisions and by-laws that you previously referred to? A: Yes.

· Q. You came in at the request of the local union to help adjust the difficulty? A. Right.

Q. Could you tell us who the representatives were with whom you dealt? A. The New York Publishers' Association, or the Publishers' Association of New York City, and the scale committee of the New York Typographical Union No. 6.

Q. Were they also advised by counsel! A. They were.

Q. Did they make any objections to any provisions which had been contained in the earlier commercial agreement that [477] bad been arived at? A. They found some objection to one of the qualifications for journeymen—the recognition of journeymen printers.

Q. Do you recall what that was? A. As I recall, the commercial contract provided the automatic recognition as a competent printer any member of the International Typographical Union.

The New York Publishers' committee felt that even that automatic recognition of competency might be objectionable, and herefore they didn't want it in the contract, so that particular section, or those few particular words, were eliminated from that section.

I would like to show you a photostatic copy of a document headed "Scale of Prices, Newspaper Branch, New York Typographical Union No. 6, August 9, 1948 to September 24, 1949," and ask you if that is a copy of the agreement that was arrived at with the New York City Publishers'. Association. A. It is.

Q. (By Mr. Van Arkel) Prior to this time, Mr. Randolph, had there been an injunction action instituted by the General Counsel against the International Typographical Union and its officers! A. There was.

Q. Had an injunction been issued? A. Yes.

Q. After the New York agreement-was entered into which you have just identified, was a contempt action brought under that injunction? A. Yes, a contempt action/was brought against me.

Q. In what Court! A. In Federal District Court in In-

dianapolis.

Q. Was the legality of the New York Publishers' agreement which you just identified challenged in that proceed-A. It was. ing! [479]

Q. (By Mr. Van Arkel) After the injunction had been issued, Mr. Randolph, did the International Typographical Union cause to be distributed to its local unions certain instructions and advice . A. It did.

Q. I show you a document with the heading of the "International Typographical Union, Instructions and Advice issued pursuant to the Injunction," and ask you if that is the document you refer to. A. It is.

Q. (By Mr. Van Arkel) Before these instructions [481] and advice were mailed to subordinate local unions, Mr. Randolph, had they been approved by representatives of the General Counsel of the Board? A. They had.

Mr. Van Arkel: I call the Examiner's attention particularly to those provisions dealing with "Jurisdiction, Union Foremen, Competency," contained in these instructions.

Q. (By Mr. Van Arkel) In the meantime, had the Labor Board also issued a complaint on charges filed by the American Newspaper Publishers' Association against the I.T.U.? A. Yes, it did.

Q. In particular, was one of those cases tried before Trial Examiner Leff. A. Yes.

Q. Do you recall that he issued an intermediate report with respect to those charges? A. I do.

[483] Q. (By Mr. Van Arkel) Subsequent to the conclusion of that litigation in the Court of Appeals, Mr. Randolph, were new charges filed against the International Typographical Union by the American Newspaper Publishers' Association! A. They were.

Q. Do you recall about when that was? A. I think it was around 1951.

Q. Did those charges undertake to challenge the legality of the clauses contained in the New York Publishers' [484] Association agreement which you have identified?

Q. (By Mr. Van Arkel) What action was taken finally on those charges, Mr. Randolph? A. They were dismissed without a hearing.

[485] Q. (By Mr. Van Arkel) Since about 1948, Mr. Randolph, have the clauses contained in the New York Publishers' Association agreement been generally used throughout the United States? A. Yes.

Q. During the period since 1951, have any contempt charges been brought against the I.T.U. asserting that the use of these clauses violated the injunction which had been issued? A. No.

Q. Have attorneys for Publishers and others generally agreed that these clauses were lawful? A. Yes.

Q. The agreement that you identified, that covered the printing end of the business, did it not? A. Yes.

Q. Have similar clauses been used in agreements covering mailer members of the International Typographical Union? A. Yes.

Q. In general, has the I.T.U. followed the same legal [486] standards whether it was dealing with printers or mailers or the commercial end or the publishing end of the business! A. Yes.

Q: (By Mr. Van Arkel) Has the I.T.U. generally counseled its subordinate unions to employ the same clauses or closely similar clauses in agreements, whether or not they covered the printing or the mailing branch of the trade, and whether they covered commercial or publisher agreements? A. We have.

Q. One of the clauses in this agreement, Mr. Randolph, is that clause which provides for a joint union-employer determination of competency; is that corect? A. That is correct.

Q. In general, are the crafts in printing and mailing skilled crafts? A. Yes.

Q. Do both of these crafts require a degre of competency?

Q. Do printers and mailers operate as a team! A. I don't understand just what that means.

Q. Let's first talk about a composing room. Suppose [487] you have in a composing room a certain number of men to turn out a certain amount of work. A. All right.

Q. If one of those men isn't competent to do the work, does that mean that the other persons then have to do it for him? A. They have to do it; the paper must get out.

- · Q. Does this give the members of the International Typographical Union an interest in seeing to it that they work with competent people! A. It most certainly is.
- Q. Are there other reasons why either the members of the International Typographical Union or the subordinate unions of the I.T.U. are interested in seeing to it that competent men are employed in the trade! A. We not only want to see that they are competent in the trade processes, but that they have the proper amount of education, that they have good character, and are in good physical condition.
- Q. Does the I.T.U. interest itself in the training of apprentices! A. Yes; extensively.
- Q. Would you describe how! A. I have under my direction a Bureau of Education in Indianapolis that provides a correspondence course of [488] of training to some six thousand apprentices at this time. The course of training will usually stretch over a period beginning with the second year of apprenticeship and usually last until the fifth or sixth year.

The lessons are practical, and they are worked out by the apprentices in the shops with the assistance of journeymen where necessary, and the product is sent to the Bureau of Education, graded, and returned to a local apprenticeship committee so that it may see the progress the apprentice is making and see that he keeps up to the standards we set.

- Q. Do local unions also have apprenticeship committees?
- Q. Do they have joint apprenticeship committees with employers? A. Yes, they do in the larger jurisdictions.
- Q: Is it part of their duty to see to it that apprentices learn all branches of the trade and become proficient as journeymen? A. Yes, it is.
- Q. There has been testimony here, Mr. Randolph, about various categories of employment, such as situation holders, substitutes, and so on. Could you tell us what a situation

holder is briefly? A. The terms "situation holder, substitute, extra" have [489] a remote beginning in the I.T.U. From the earliest days—and this goes back over one hundred years—there was only the situation holder, in a newspaper particularly, who had a situation seven days a week, and he was variously termed a situation holder or a regular.

If at any time he wanted to get off for a day, it was his obligation to the employer, and enforced by the union, that he supply a substitute for that day.

The industry at that time was all hand-set type, and a regular was assigned a set of cases, caps and lower case, out of which he set type for the night or day that he was employed.

He would return during the opposite shift on his own to distribute the type which he would set up on the next day. He wouldn't get paid for distributing the type.

Q. By "distributing type," I take it you mean to disassemble the type and put it back in the cases? A. That's right.

So that his choice of a substitute was based upon his knowledge of the ability of the substitute to distribute type cleanly, as they referred to it, because that determined how much correcting he might have to do himself when he returned to work if his case was dirty.

In those days there was a list put up of substitutes who were competent to work in that office. The foreman put [490] up such a list and the regular's choice of the substitute was from that list.

As the union adopted a six-day week, the situation holder had to put on a sub one day a week, besides any day he might want to get off. That led to the charge of discrimination as against union people by virtue of having a selected list of people who might accept work, so that the union abolished the sub list as put up by the foreman, making each member eligible to go in and accept work in any union shop. The terms "regular" and "substitute" thus were anchored then and anchored today to a competent journeyman.

As the union began making contracts with employers along about in the 80's, the situations were changed to the six-day situations, and each man was not required to put on a sub for a day, but that the situations were distributed over more regulars.

The practice after the abolition of the sub list was to putup, beginning at least in 1892, the putting up of a priority list so that there would be no discrimination against union men in the filling of situations.

In other words, those who made themselves available regularly for extra work given out by the office, or subbing, were discriminated against on the basis of friendship, religion, or politics, or anything else that might come up, and the [491] union decided the foreman shouldn't have that amount of authority, so the priority law adopted in 1882 is basically the same today although it has been changed a little here and there.

The oldest sub in priority order is the one eligible for the first vacant situation.

Q. By "oldest," I take it you don't mean oldest in age?
A. No; the one who had been showing up the longest period of time.

Now, the word "substitute," as I say, is anchored directly to a journeyman who is available either to be hired by the regular for any day he wants to be off, or be hired by the office, the foreman, for work needed to be done. So that the substitute who is a journeyman may be working as a substitute for another regular on one day, and he may be working as an extra for the office on another day.

Bear in mind that these are still all journeymen printers. The union recognizes only journeymen and apprentices as classifications; and in our contracts, including No. 6 Mailers

and Printers, it is right in the contract that only journeymen and apprentices shall be recognized as the classifications.

Q. As the industry has changed and grown, and the size of the metropolitan newspapers has increased, has it become necessary in the printing and mailing trades, or in either [492] of them, to provide at times for additional classes of employment? A. As the industry has grown and specialization has set in, it has been impossible that any one man learn the entire composing room scope of activity. He couldn't learn to run a linotype or to run a monotype or learn to be a machinist, learn to be a casterman on the monotype, a proof-reader, a floor man, and all of the various classifications of a complicated trade.

Our apprentice system takes under consideration the teaching of the basic trade, what we commonly term a floor man, in addition to some one machine that the apprentice must learn during his six years.

It may be a linotype machine or a monotype machine or some other type of machine. Some may be required because of a particular kind of a shop they are; a specialty shop, for instance, they may not learn a machine at all, but they may learn, besides the basic floor work, proof-reading, copy preparation, and perhaps some other specialized line, and there are many.

In this specialization that has come to us, we have successfully found ways to operate our priority system, our principal priority system, without difficulty.

Q. Particularly at the mailing branch of the trade, is it characteristic that there are certain nights of the [493] week when vastly increased numbers of persons are needed to get out the paper? A. Yes. It is a common difficulty to be met with throughout the newspaper field. The Sunday paper is usually of tremendous size, and besides perhaps a Saturday paper, there is a great deal of the Sunday paper

produced and partially prepared for distribution on Friday and Saturday nights which swells the need on those two nights for a greater number than the union is capable of adequately supplying by way of journeymen.

Q. Who are these people in general? A. In some places they will try to cover them with journeymen and work double-headers on Friday and double-headers on Saturday, which becomes very burdensome. But on most of the papers, the union realizes that it couldn't hold enough journeymen in the city to take care of two nights a week only.

It has been generally the practice in all but a few jurisdictions that most any kind of help that could be had was tolerated with the help of the journeymen on Friday and Satur-

day night so that the paper might be gotten out.

Sometimes it is college boys that need the money for an education; sometimes it is relatives of journeymen; sometimes it is people they scoop up anyplace they can get them to do the more laborious tasks in the mailing room to [494] help get the paper out on Friday and Saturday nights.

Q. Is it true that in both the composing and mailing, rooms it is necessary to have a certain corps of men who among them have all the basic skills that are necessary to the efficient operation of the composing room and the mailing room? A. That is true.

Q. Are they generally the group that constitute what you described as the situation holders? A. Yes.

Q. Who may be augmented from time to time by people of less skill who work under the direction of the situation holders? A. That is true mostly in the mail room; there are some in the composing room.

Q. Does the International Typographical Union also attempt to teach journeymen other branches of the trade? A. Yes. We have a training center in Indianapolis for journeymen only that costs us a tremendous amount of money and effort, whereby we are trying constantly to teach journey-

men related processes brought into the industry by way of evolution, the new inventions that come out to either supplement or take the place of standard composing operations.

We try to teach them there, and we have the machinery there, and we keep them up to date on the evolution of the [495] trade.

Q. Is this with the objective of supplying the industry with people competent to work on all processes involved in the printing and mailing trades? A. Yes.

Q. Have printers and mailers had a tradition of mobility at their craft? A. Yes. That has been one of the biggest factors of satisfaction both to employers and to our members, because any member may at any time request of the local secretary a travelling card. If it given to him on payment of his dues.

That travelling card permits him to go to any city in the United States or Canada where we have a union, deposit that travelling card, and be given a working card, and proceed to work in any shop that needs his help.

That practice of keeping journeymen on an even keel in competency and training pays off to the employer, because the force is thus mobile, and business may be poor in one city and journeymen printers take travelling cards and go to another city where there is work and fill in without any difficulty to follow the work.

It is a mobility of force, and it is the choice of the environment by the printer.

Q. When a person with such a travelling card goes into [496] a new town, does he then go to the foot of the priority list at the particular establishment where he might seek work? A. Yes, he does.

Q. He then has to take his chances on getting work as it becomes available, like any other person? A. That's right.

Q. Throughout these agreements that you have identified, Mr. Randolph, and the current agreement, the words "journeymen" and "apprentices" frequently appear.

What is the definition which the International Typographical Union has given to those words "journeymen" and "apprentices"?

- Q. (By Mr. Van Arkel) Mr. Randolph, the term "journeyman apprentice" as used in the agreements in evidence, or the [497] other documents put in evidence here, do those words mean only members of the International Typographical Union? A. No.
  - Q. What do they mean?

[498] Trial Examiner: Where is the part you say would require journeymen to be members?

Mr. Richman: It is not in the contract per se, but the general laws, in Section 10 of Article 5 on page 115 of General Counsel's Exhibit 4 indicate that.

Trial Examiner: Your question is what?

Mr. Van Arkel: My question is: What do the terms "journeymen" and "apprentice," as used in the agreements which are now in evidence and in the other documents which have been identified by the witness, mean.

Trial Examiner: I will let the witness answer the ques-

- A. The term "journeyman" means anyone who is found competent to perform the work of a journeyman, and an apprentice is one who has been formally registered as an apprentice and is subject to the training period that will [499] eventually cause him to become a journeyman.
- Q. Does it have any reference to union membership or non-membership? A. It does not.
- Q. You have identified here, Mr. Randolph, the agreement with the New York Publishers' Association, which

agreement provides for the setting up of a joint employer union committee on compétency.

Are you familiar with the practice that has been pursued under that agreement in New York City! A. Yes.

Q. What has that practice been! A. It provides the following out of the procedure mentioned in the contract, and the final provision of it involves the testing of competency of those who claim to be journeymen and seeking work in the composing rooms.

Since the agreement was first made, there have been some fifty applicants who were non-union men claiming to be journeymen and seeking work. Of the fifty, approximately half passed the examination at the school maintained by the employers and the union, and of that half they all made application to join the union.

The union accepted all but three. All three appealed to the executive council of the International Typographical Union, as is permitted under our laws, and the council [500] reversed the local union on two of the cases and they were therefore admitted. The third had committed a crime against the union that is hardly forgiveable, and the local union refused to accept him as a member, and the council sustained the local union's action.

However, that individual is still working, and began working immediately after he passed the examination and is still working in a union shop in the city.

Q. As a journeyman? A. As a journeyman.

Mr. Richman: Might I inquire whether we are talking about mailers now or people in the New York Typographical Union No. 61

... Mr. Van Arkel: We are talking about the operation of these clauses of these agreements.

Mr. Richman: Which agreement specifically? We are dealing here with the Mailers' contract.

Trial Examiner: Does your answer have reference to the operation of the agreements in evidence now?

The Witness: Yes. I am speaking particularly of the Typographical agreement, and undoubtedly will speak about the Mailer agreement as I am asked.

Trial Examiner: Any further clarification you can bring out on cross examination.

Mr. Richman: Yes; but when we talk of agreements, I [501] would like the record to show which ones we are referring to.

Q. (By Mr. Van Arkel) Did any of the twenty-five persons who failed to pass this competency test, Mr. Randolph, lodge any complaint that the examination was unfair, or that they had been discriminated against in any way? A. None did.

Q. These were all non-union men, who you say took this examination? A. Yes.

Q. By whom was this examination given? A. It is given by the instructors of the school that is maintained for the training of apprentices on machinery. The school is maintained by the employers of both the newspaper and commercial fields, and the several unions in the printing crafts in conjunction with the City of New York.

Q. Is the examination that is given these applicants for work the same examination that apprentices are required to pass in order to become journeymen members of the

I.T.U.! A. Yes.

[503] Q. (By Mr. Van Arkel) Mr. Randolph, does the agreement in evidence with Mailers' Union No. 6 contemplate the same type of procedures as you have described with reference to the contracts covering the printer members of the I.T.U.! A. Substantially so, yes.

[504] Q. Mr. Randolph, you previously identified the in-

structions and advice which were issued pursuant to the

injunction.

Specifically, do those instructions provide, "The following clause is not prohibited by the decree: It is agreed that all foremen of composing rooms shall be members of the union in good standing"? A. Yes.

Q. Were you advised at the time these instructions were issued that this particular injunction had the approval of

the office of the General Counsel? 'A. Yes.

Trial Examiner: You are referring to Intervenor's Exhibit No. 3!

Mr. Van Arkel: Yes.

Q. (By Mr. Van Arkel) At the time that these instructions and advice were issued, did the oath of membership in the union require that union members accord a preference to other members of the International Typographical Union in employment? A. Yes.

Q. Was that matter litigated in the cases which we have

been discussing! A. Yes.

Q. Subsequently, was it then alleged that this required discrimination in hiring? [505] A. It was.

Q. Subsequently was that changed! A. It was changed.

Q. Do you recall when it was changed? A. I think in 1953; but subsequent to that, while the litigation was in progress, we sent out instructions that such an obligation on the part of foremen or members did not apply because of the Taft-Hartley Law.

Q. I would like to show you this little pamphlet headed "Changes in the Laws Adopted by the 90th Session of the International Typographical Union," and specifically, at page thirteen thereof, the paragraph beginning at the bottom of the page.

Is that what you had reference to? A. Yes.

[506] Q. (By Mr. Van Arkel) Mr. Randolph, I note that the matter which you have identified is included in the report of a committee on collective bargaining policy.

Would you tell us what the committee on collective bargaining policy is? A. It is a committee appointed by me at each convention over which I have presided since 1947. The function of the committee is to keep abreast with everything that has transpired in our relations with the employers, and particularly with respect to the legality of any such relations.

- Q. Was this report submitted to the 90th Convention of the International Typographical Union? A. It was.
- Q. Was it adopted by the delegates to that convention?
- [507] Q. (By Mr. Van Arkel) As amended, Mr. Randolph, was the oath of obligation that which presently appears in Article 12 of the constitution! A. Yes.
- Q. That is already in evidence; is that correct? A.
- Q. Under the practice of the International Typographical [508] Union, I believe it is customary, as has been testified to here, to include in contracts a clause that matters not covered by the contract shall be covered by the general laws of the I.T.U.? A. That's right,
- Q. Any particular general laws? A. No. The general laws of the I.T.U. provide certain maximums, minimums and certain directions to accomplish things by contract and certain restrictions on the work day and so on that have been over the years the minimum conditions under which a union shop will operate.
- Q. I will come to that in a moment, Mr. Randolph. Specifically, I take it, however, that since 1953, the oath of obligation of membership has contained no provision requiring members to give preference in employment to

other members of the International Typographical Union!
A. That's right.

Q. Has it been traditional in the printing industry and in the mailing industry that foremen be members of the union! A. Yes.

Q. From your experience, what, in your judgment, is the reason that this has been traditional? A. Besides just having begun that way, it is necessary for the satisfaction of the union that the one man who directs them knows the craft, and that he is not prejudiced against [509] union people, and that when his judgment is exercised—for instance on discharging our people—they will feel that it was by someone who knows what he is doing instead of doing it through prejudice.

Q. Is it an important part of the foreman's duties that he be familiar with the general laws of the union? A. It

is, indeed.

Q. Under the practice that is followed in composing and mailing rooms, does the chapel chairman take up any asserted violations of the contract with the foreman? A. Not in the last half-dozen years. He used to do that, but now he reports to the president of the union any violation of law or contract that he observes, and then it is up to the president of the union to try to straighten it out if anything is wrong.

Q. With the foreman? A. With the foreman initially,

and if not, with the employer.

Q. In order for a foreman to discuss these matters intelligently with the president of the union, is it necessary that he have some knowledge of the general laws of the International Typographical Union? A. He should not only have a knowledge of them, but their historic significance, and he is in a position where psychology plays a large part in how everyone gets along. [510] A union man simply could not be happy working for a non-union

foreman who they know is anti-union because he is non-union.

Q. Has it also been tradition in the industry that the foremen are entrusted with the responsibility of doing the firing and hiring? A. That is correct.

Q. Has the I.T.U. in these last years sought and obtained contract clauses providing that the foreman shall do the hiring and firing? A. Not only in the last few years, but it is historic.

Q. What, in your judgment, are the reasons why this responsibility in the printing trade has been given to the foremen? A. It is from both angles. In the first place there is one authority to be responsible, and that one authority is between the men and the employer, and there is no passing the buck. As the employer's representative, he hires and fires; therefore, the employer is responsible for his acts.

Not only that, but the employer has generally recognized not only the fact that one man should have the responsibility, but that he be a union man.

Q. Did the order of the Board which was enforced by the Court of Appeals contain a provision forbidding the I.T.U. from restraining or coercing employers in the selection of [511] foremen? A. Yes.

Q. Has it ever been asserted that the I.T.U. has been in contempt of that decree? A. No.

Q. To your knowledge, has it ever been necessary, or dias any subordinate local of the I.T.U. attempted to restrain or coerce employers in the selection of foremen? A. No.

Q. Have employers generally been willing to hire union foremen, and to give them the task of hiring and firing?

A. Yes.

Q: .(By Mr. Van Arkel) Would these matters be called

to your attention if they occurred, Mr. Randolph! A. There hasn't been any that occurred. Our old history is grounded in the fact that the foreman is the one to hire and fire. Our members have even been disciplined for going over the head of the foreman to somebody in the office.

Q. There has been reference made here, Mr. Randolph, to the clause which appears in the contract between the [512] Publishers and Mailers' Union No. 6 in Section 24, which I would like to read to you.

"It is understood and agreed that the general laws of the International Typographical Union in effect June 1, 1957 not in conflict with this contract or with Federal or State law, shall govern the relation between the parties on conditions not specifically enumerated herein."

First, has such a clause been the usual practice over the years in agreements between subordinate local unions and employers? A. That clause has been in its present form generally since the Taft-Hartley Act was adopted.

Q. Prior to that time, had a similar clause been contained in agreements! A. Yes, without reference to the civil law, because there wasn't any at that time.

Q. To your knowledge, when did such a clause first come into general use? A. In 1948.

Q. I mean the prior clause? A. That was just one of those things that was historic in itself. To understand that, I may point out that in the earlier days there was no collective bargaining. Our union is over 105 years old, and at that time there was no [513] collective bargaining.

The union simply adopted a scale of prices which its individual members would enforce individually wherever they worked, and they would receive so many cents per thousand of type, or they didn't work. The laws of the union, including the scale of prices, was the complete and total scope of their wages and working conditions.

As the industry grew, as it became more specialized, and

the linotype machine was invented, the business became of such a volume that it was to the interest of the employers to have a more stable scale of prices than at the will of the union simply to change it at a union meeting.

They requested the union to agree that certain scales would be in effect for a given time in order to enable them to conduct their business more orderly and be assured of their costs.

So along in the early days when the processes of collective bargaining began, there were very few regulations besides the operation in the composing rooms of union laws governing their working conditions and regulating each other in the shop.

The gradual addition of more and more sections to a contract prevailed and kept growing because of the growing of the industry and the diversification of the industry into different fields.

[514]. So that in the matter of stable conditions, which were good for the union as well as the employer, more and more working conditions were set out in the contract, but always, throughout our entire history, the laws of the union were accepted as governing the working conditions other than those specified in the contract,

Now, that brought about many complaints about law books so thick we don't know what is in it, so in 1931 we—

Q. Recodified? A. More than that. What we did was to separate from the book of laws such sections as had anything to do with working conditions, and it might be in any way affecting an employer's interest.

We put in the constitution the basic and fundamental laws; in the by-laws, the more numerous laws applying to our internal operation. In the general laws, only those things that governed wages, hours, working conditions, to which we ask employers to subscribe as being the essence of the union shop.

The general laws were found to be a very small number of pages out of a two-hundred-page book, and it is easily identified and easily kept track of.

They represent in part those things which have already been established by collective bargaining, and if a law is changed, it means that a basic and fundamental change [515] is made, that the union will insist on getting in the remaining contracts after it has been largely established already in other contracts.

In addition, the general laws has a number of directions to local unions to propose in their proposals to employers, certain kinds of improvements which they hope to get, and obviously if they ever accomplish it on a large scale, then instead of proposing it, they might say that no contract hereafter shall be signed without that in it.

That is one of the ways in which progress is made slowly instead of disastrously in an attempt to be quick about it.

Q. How are the laws of the union adopted, Mr. Randolph! A. A constitution may be adopted only by referendum vote or changed only by the referendum vote. By laws may be made by convention or by referendum vote. The general laws may be made by convention or by referendum vote.

The membership retains the authority to change any law by a referendum vote, and a referendum vote may be called by 150 subordinate unions petitioning for a vote on any change.

If that proposed change is in proper form, the officers have to submit it to a referendum vote and the membership specifies as to what the local laws are to be.

Q. How frequently are conventions held? [516] A. Every year, except for war or pestilence or something.

Q. How are the delegates to the convention selected?

A. By referendum vote by the members of each local union.

Q. Is it correct, then, that the general laws of the union may be changed only by the vote of the delegates at a convention, or by secret referendum ballot of all the members! A. That's right.

Q. I take it a change in the law does not mean that that is automatically put into effect, does it! A. No.

Q. The employers still have to agree to or consent to the change that is thus made by the law? A. That's right.

Q. If they won't agree, I suppose the union's only remedy is to strike to get that change! A. That's right; or go along without it.

Q. This clause which I have read to you states, "in effect January 1, 1957."

Has it been general in these clauses to apply those laws as they may have been at the time the agreement was entered into? A. I don't understand you.

[517] Q. I say, is it the custom usually of these clauses to provide that the laws as they exist at the time the agreement is entered into shall be applicable? A. During the life of that contract, yes.

Q. And then, if there is a subsequent contract, that date might be changed? A. Right.

Q. I note that this contains a provision that the laws of the International Typographical Union shall not be submitted to arbitration.

Has such a clause been common? A. It has ever since approximately 1900. Its origin is in the fact that in 1901 there was an International arbitration agreement entered into between the International Typographical Union and the American Newspaper Publishers' Association whereby local unions and publishers in any given city might arbitrate their differences over wages, hours, and such working conditions as were not governed by the general laws of the union.

In order to prevent any change by an arbitrator's whim

of those conditions, it was agreed that the laws of the union won't be subject to arbitration.

Mr. Richman: By "laws," Mr. Van Arkel, are you referring to all the laws or the general laws?

The Witness: In those days, it was all the laws, [518] because we hadn't separated them; we found them scattered through. But since 1931, it has been the general laws.

Mr. Richman: Thank you.

- Q. (By Mr. Van Arkel) Do all the general laws of the International Typographical Union, Mr. Randolph, have a valid scope of application? A. Undoubtedly.
- Q. (By Mr. Van Arkel) Are you a member of the bar, Mr. Randolph! A. Well, I don't know how to take that. I was given one of those certificates that says I might practice law in Illinois back in 1921. It is very technical as to whether I ever practiced law or not. I suppose I could be sent to jail if I didn't have the certificate because I did have one paying client.

I earned my living at the printing business, and therefore the major point is that I am not a lawyer, but I have been accused of being one and I have sometimes said that I had lived it down.

[519] Q. You have never been disbarred or suspended, in any event, Mr. Randolph? A. No.

- Q. Does the I.T.U. have subordinate local unions in Canada? A. Yes.
- Q. Is there, so far as you are aware, any legal impediment to the application of the laws of the I.T.U. in Canada, all of the laws? A. There is no impediment.
- Q. Does the I.T.U. have members who are employed in enterprises which don't affect interstate commerce? A. Yes.
- Q. Are there, so far as you are aware, any legal impediments in most states of the union to the application of all

of the laws of the International Typographcial Union in those shops? A. No.

Q. You testified, Mr. Randolph, that there had been a change made in a clause which I read you from Section 24 of Mailers' Union No. 6 after the passage of the Taft-Hartley Law.

What was that change? A. What section is that?

Q. Section 24. I will show it to you.

[520] Trial Examiner: Are you referring to a specific exhibit?

Mr. Van Arkel: Yes; General Counsel's Exhibit 3, Mr. Examiner.

The Witness: What is the question?

Q. (By Mr. Van Arkel) The question is this:

Was the change made in the clause after the passage of the Taft-Hartley Act? A. Yes.

- Q. What was that change A. The addition of the words "not in conflict with this contract or federal or state law"; particularly the words "not in conflict with federal or state law."
- Q. I show you, Mr. Randolph, a document headed "Agreement between Publishers' Association of New York ("ity and Mailers' Union No. 6, Effective May 7, 1946," and ask you to examine Section 25 of that agreement.

(Witness examines document.)

- A. Yes, sir.
- Q. Would you read into the record the language of that clause! A. Section 25: "Both parties agree that their respective rights and obligations under this contract will have been accorded by the performance and fulfillment of the terms and conditions thereof, and that the complete obligation of [521] each to the other is expressed herein. It is understood and agreed that the general laws of the International Typographical Union in effect January 1, 1945, not in conflict with this contract, shall govern rela-

tions between the parties on conditions not specifically enumerated herein."

Q. Was that the type of clause which was used before passage of the Taft-Hartley Act? A. Yes.

Q. Subsequent to the passage of the Act, was the clause that was used similar to the one in General Counsel's Exhibit 3? A. That's right.

Q. Mr. Randolph, you have already identified as Intervenor's Exhibit 4 the changes in the laws which were made at the 1948 convention of the International Typographical Union.

I call your attention to the language: "The executive council, with the approval of your committee, has made it clear generally that only those union laws not in violation of the Taft-Hartley Act or State Anti-Labor Statutes are recognized as valid by not asking that any matter be governed by union laws which are in violation of any Federal or State Law."

I will ask you simply this:

Was that report of the committee on collective [522] bargaining policy adopted by the 1948 convention? A. It was.

Q. I call your attention again to the book of laws, Mr. Randolph, particularly to Article 14 of the general laws.

I wonder if you would be good enough to read into the record the provisions of Article 14 of the general laws. A. Article 14, Public Law, Section 1: "In circumstances in which the enforcement or observance of provisions of the general laws would be contrary to public law, they are suspended so long as such public law remains in effect."

Q. Can you tell us when that change in laws was made! A. I think around 1952 or 1953, I am not certain.

Q. I show you the Typographical Journal for September, 1953, particularly page 80-S, and ask if you would

read into the record the material appearing under proposi-

First, let me inquire, Mr. Randolph: Doesethat contain the report of the proceedings of the convention of 1953? A. It does.

Q. Is that what you are now reading from? A. Yes.

"Partial report of the committee on laws, Proposition No. 134 by the committee on laws. Amend general laws by adding new Article 14 in italics as follows: Article 14, Public Law, Section 1: In circumstances in which the [523] enforcement or observance of provisions of the general laws would be contrary to public law, they are suspended so long as such public law remains in effect. Committee reports favorably with the following comment approved by the committee on collective bargaining policy. The report of the committee on proposition No. 134 was adopted."

- Q. Does that mean that that became part of the general laws of the International Typographical Union? A. It does.
- Q. Turning to page 79-S, Mr. Randolph, I wonder if you would read just this one paragraph from the report of the committee on collective bargaining policy. A. "Your committee reports favorably on Proposition No. 134, referred to it by the committee on laws. Our right to adopt laws and to insure means for their enforcement has been upheld by the Courts, but under Federal and State statutes and outstanding decrees, the enforcement or observance of certain laws under some conditions may constitute a violation of law or a decree. This proposition makes it clear that in such circumstances the enforcement or observance of such general laws is suspended."
- Q. Mr. Randolph, has the International Typographical Union undertaken to distribute to subordinate local unions sample constitutions and by-laws for such use as they might

care to make of them? [524] A. Yes, principally for new unions.

- Q. I show you such a document with a flyleaf attached, and ask if that is the document that you distributed to such local unions. A. Yes, it is.
- Q. (By Mr. Van Arkel) Mr. Randolph, I have another copy here of a booklet headed "Sample Constitution and By-Laws."

Is that another form of the same document? [525] A. Yes, it is.

- [526] Q. (By Mr. Van Arkel) Mr. Randolph, did you cause to be distributed on or about December 18th, 1950, a document headed "Important Notice to Officers and Scale Committees of Subordinate Unions"? A. Yes, sir, I did.
- Q. Is the document which I have just handed you a copy of that notice? A. Yes.
- Q. Was it, in fact, distributed to all officers and scale committee members of subordinate unions? [527] . A. And all chapel chairmen.
- Q. (By Mr. Van Arkel) Under the by-laws of the International Typographical Union, Mr. Randolph, or under any of its other laws, are you or is your office required to review contract proposals and contracts before they are made final? A. Yes. Local unions must send to my office any proposed contract for review before they are presented to employers in order that we can screen it and keep it in accordance with our own laws and with civil law.

[528] Then, after negotiations they must again submit it for screening to see that it is still in compliance with our laws and with civil law before they may finally agree to it and sign it with the employer.

Q. Has your office, in fact, done that since the passage of the Taft-Hartley Act? A. It has done it since and be-

Q. Have changes been made in contract proposals or in contracts because in your opinion, or in the opinion of those on your staff, they contained provisions which were contrary to the terms of the Taft-Harltey Act? A. Yes.

Q. Is that one of the purposes for review? Is that one of the reasons for reviewing such agreements? A. Yes.

Q. Particularly since the order of the Court was entered by the 7th Circuit, has this, in your judgment, been something which was required in order to make certain that that decree was complied with? A. Yes.

Q. Would it be possible for the I.T.U. to spell out exactly what laws of the I.T.U. might be validly applied, and under

what circumstances? A. No.

Q. In practice, you have identified now various [529] instructions that certain laws of the I.T.U. mean that certain additions might not be applied.

In practice, how is that matter taken care of, if you

know! A. Say that again.

Q. I mean, what is the practical way by which this instruction that laws of the I.T.U. are not to be applied where they would conflict with federal or state law? How is that practice handled? A. Bearing in mind the fact that at the beginning of the operation of the Taft-Hartley Law every union had to submit its proposed contracts for review bearing that in mind, you All see that at that time we had a great deal of difficulty sifting out all of the provisions that couldn't be applied.

Once the local unions had a contract that was approved and operating within our law and within the civil law, it was fairly easy for them to keep going that way because not very many changes are made in these contracts as we go along. The employers seem to be allergic to making

changes in contracts, and once they have one they want to keep it forever.

Q. Let us assume a set of circumstances, Mr. Randolph. Let us assume that a certain matter was not covered by an existing agreement between a subordinate local union and a [530] group of employers, and that the parties had reference to some section of the I.T.U. laws to dispose of the problem, and under the particular circumstances presented, such a law couldn't validly be applied.

What would be the machinery by which that problem would be taken care of? A. The union would, perhaps, against my orders, call me up and ask me what to do about

it.

- Q. (By Mr. Van Arkel) would the publishers be able to assert in such a situation that the application of the law in those particular circumstances is not lawful? A. They could.
- Q. Could the local union then seek your advice, or the advice of the attorneys for the union, as to whether or not it might under those circumstances be validly applied? A. They could.

Q. Has that, in fact, happened? A. Yes.

Q. To go back to your earlier answer, you said it would [531] be quite impossible to indicate all the circumstances under which laws of the union might or might not be validly applied.

Could you give us the reason why that would be impossible! A. The industry has become so complex, and the application of state laws as against federal laws, and the difference in the unions themselves is great as between a small union and a large union—when you consider that the general laws that we are talking about are kept at a minimum, even that is one based on principles and you couldn't

make a detailed revision that would fit every circumstance; you just couldn't do it.

Q. (By Mr. Van Arkel) Mr. Randolph, there has been a good bit of reference here in the testimony to the priority system.

Would you describe to us in a few words what the priority system in the printing and mailing industry traditionally means? A. Briefly, it is simply that the journeyman, the oldest [532] in service, has priority over those with less service to him. It runs all the way down. It applies to journeymen tonly. Apprentices don't have priority, and they only establish it as they become journeymen.

The laws of the union since 1892 have provided for that condition. The laying off of journeymen puts them back on the slip board, as we call it, or the list of subs. If the force of regulars is increased, those who have been laid off are hired in the reverse order that they were laid off. In other words, the oldest substitute is the first one to get a situation.

Q. Mr. Randolph, you mentioned "slip board." I would like to show you this photograph.

Is that a photograph of a slip board? A. Yes. This is a mechanical arrangement, the same as a priority list, except that it is divided up into classifications of work.

Q. What slip board is this a photograph of? A. The New York Times, I believe.

Q. Looking at the left-hand column, I note it is headed "Proof Readers' Night," and then beneath that are nine slips.

What would those nine stips indicate to you! A. That would indicate the priority standing of those nine men. The slip on the right side of that column is the name of the substitute, and the column on the right-hand side [533] of the first column there is for the indication of hire.

You will notice there are five slips in those slots. The writing is indistinct, except on the first and last, but that undoubtedly has the name of a regular situation holder who is hiring that man for a certain day. He is then called a sub.

Now, the other subs who are available may be hired by regulars who want to get off, or they may be hired by the office, in which case the foreman would go over and put an indication in that slot that he is working that night for the office.

In that case, they would be called technically an extra; whereas if he is working for a regular situation holder, he is called a sub.

You will notice a lot of blanks in there where there is no names, and then you will find some more slips near the bottom. As a matter of fact, for convenience, the blank spaces are left in the middle so that when the foreman lays off some situation holders, they don't have to move down to that portion, or if there are more journeymen that show up for work than subs, he would move the bottom part upward into the blank space. It is for convenience of the chairman not having to move the whole bunch of slips every time he revises if.

You will notice the proof readers in the next group [534] is the lino machinists' night, and the next one is the operators' night, and there are two full columns there of spaces, but the first column is about the only sub showing up. There is one on the second column, too.

You may notice that there are two on the right-hand side of the second column with nothing on the left-hand side. No doubt, those two subs pulled their slips, as we call it, and left town or left the office; they are gone. The chairman, in going over the board, will simply take out the two blank slips.

Now, should it be that those subs had violated the ethics

of our union, and just pulled their slips and said to hell with it, and left regardless of whether there were slips opposite their name or not, the chairman would see to it that somebody filled those jobs.

You will see the little tabs along there on each one, the little metal tabs in the middle. Among those subs who are available at that time, he would take that little metal tab, take them all off, and put them in a hat. He would permit the subs then to draw as to which one would get that night's work. They do that as a matter of seeing to it that there is no discrimination.

Now, anybody that is a journeyman that shows us, his name will go on that slip board at the bottom, and by dividing it up into these classifications, it indicates that a [535] man claims priority and is competent as a proof reader, for instance, or an operator, or a machinist, and so on. He claims competency in that class of work, and if the foreman hires him, he proves that he is competent.

Now, the specialization habit may be that even though a man is competent in four or five of these classifications, he likes one. He will slip up under that and he will in that way indicate to the world, "Well, you can fire me for this, but you cannot fire me for anything else." It is a way in which the natural law of desire works. Each man will find his place where he likes to work best and he will stay with it.

However, in the case of producing a force of extras, if a man, for instance in this first column of proof readers, is laid off of his regular situation, if there is other work in the office he is competent to do and which he is willing to stand on, he can claim that. Then that man would then be laid off.

So the priority works in a public fashion and everybody can see if there is the slightest bit of unfairness anywhere, or somebody isn't hired in his regular order, or whatever. It is a picture of the priority list and a picture of the hiring,

so that anybody can look at it and knows what goes on every day of the week?

That is the same, as I say, as this exhibit of a [536] priority list that you have here except that it is split up into these classifications for the purpose of hiring. The foreman hires from that board.

The chairman also has, or should have—this may be one of our laws that a lot of them don't live up to—but the chairman should have a complete priority list showing all of the members and all of the journeymen, no matter who they may be, in the order of the date of their bire, so he can look at that, if somebody claims that "I have been laid off. I want to work over here"—he will look up there and see if he has priority over Jim, and if he has, okay, he can do it.

This has been going on for a long time. I first noticed it forty-five years ago when I became a journeyman. This slip board method is so old that it goes back perhaps as far back as 1892, when the first priority law was adopted.

It is the means whereby every journeyman can look at the board and see what goes on. If there is any finagling, he catches it right away, and they just don't allow it.

So the means, as you see, satisfying the needs of the office for these dozen classifications here, is automatically taken care of and a foreman can look at the board. If there are no subs available, he has four regulars on the machines, as they say, and some guy has to get off, "Nothing [537] doing; you got to work."

Unless he can find a machinist sub, he has to work. That is his obligation; that is his duty. He can't jump without losing his priority entirely. If they take your priority away, they fire you.

That is a visual picture of how our system works. As I say, it is confined to journeymen.

Since Taft-Hartley, anyone that comes in and says he is a journeyman printer, if he is then in this city, as I have

testified, he is tested first to see if he qualifies as a journeyman, and if he does, he may apply for membership. We like to have more members in the union if they are the right kind of people.

We have no trouble about getting them into the union; it is a privilege and an honor to belong to the Typographical Union, and the benefits, the pension and the mortuary fund and the union printers' home, and the various benefits that we have besides the economic advantages, is enough so that anybody that is a printer that can see a chance of working in a union office, he wants to join. We have no trouble about that.

We have to screen them as to competency, and the employer doesn't want a man on that board that isn't a journeyman because he doesn't want to pay the wages unless the man can deliver. Therefore, he has to be tried out. [538] It would reduce the quality of our membership tremendously if we just took the word of everybody that said they were a printer. There are a lot of people that are half printers, and it would immediately reduce the ability to get out a paper on time, as we have to do.

There is no discrimination about it either before or after Taft-Hartley, beacuse that is the mechanical means whereby we prevent discrimination. A non-union person on the bottom of that list, or any other place on that list, can immediately see whether he is discriminated against. That is his spot. Anybody can see it.

[539] Q. (By Mr. Van Arkel) Mr. Randolph, do I understand it to be your testimony that this system which is illustrated by this slip board is also the system of hiring which is used in mail rooms? A. So far as I know, the mail rooms—we will say this mail room in New York has no such slip board. There isn't diversity of specialization in the mail room that would call for that to be used.

In other words, the priority list is sufficient if you don't run into all of these other complications as to competency in a dozen different ways.

Q. In its essentials, is the system the same! A. The system is identical. It is just a matter of whether the man on that priority list is competent to do the work required of him in the mail room.

Q. As far as the International Typographical Union and its subordinate unions are concerned, do the priority laws [540] apply to anyone other than journeymen? A. They apply to every journeyman, but no others.

Q. Do they apply, for example, to casual help hired on an infrequent basis? A. No. They cannot apply to them,

as I think you will see by studying this system.

In the first place, they are outside of our contracting ken, and they are outside of the scope of the union law. They are, of necessity, on a Friday and Saturday night in a lot of places, and there is very little the local union can do about it except try to get the scale for them to keep from having their work undercut.

They are just casuals and are solely a means to an end, namely, to get the paper out when there are no other people

around to get it out.

Q. Where the slip board isn't used, is it customary to post a priority list? A. It should be posted in every

chapel, mailer or printer alike.

Q. Is that list equally available to representatives of management, representatives of subordinate unions, and journeymen and others who are employed? A. It is posted and available; it is posted in a conspicuous place where anybody can see it..

Q. That is the definitive record by which priority and [542] hire is determined; is that correct? A. It is the question of how priority is determined. The hiring is determined by the particular competency of the journeyman. In

other words, in no place—I think it was tried in Boston, but I don't think it goes there.

In no place is there straight hiring in priority order, because if he wanted to hire a machinist who happened to be near the bottom of the list, and he had to hire in priority order, he might have to hire a dozen linotype operators and proof readers before he ever got to the machinist, and therefore he would have a surplus of useless help.

The hiring is done in priority order, modified by the ability of the priority man to do the work in question at

the time.

Q. (By Mr. Van Arkel) From your experience, and in your judgment, Mr. Randolph, does this priority system produce an equitable system of hire? A. It is our only invention for that purpose, and, as I said, it was long before Taft-Hartley. It was necessary to keep the foreman from discriminating one union man against [543] another.

Q. Have there been such discriminations before the priority laws of the union were adopted? A. Yes, there were.

Q. Is this priority system an effort to correct such discrimination? A. It is:

Q. Is the system of priority in hire which you have described an aid to the system of granting traveling cards? A. It helps considerably both ways; that is, the man with the traveling card can come in and deposit his card and put his slip on the board for whatever work is available in that priority order.

It is a quick introduction to work, and he can come in and look at the board. If there are a lot of subs, he can ask, "How are you fellows doing?", especially the last sub or two; "What are you getting?" and if it isn't satisfactory, he goes someplace else where there are fewer subs on the board, or to some other city.

In other words, he can come into town and see if there is work, and if there isn't, he can move on.

Q. Is it your testimony that a non-union man who proved that he was a journeyman would have equal rights with union men in slipping up on the board and in priority of hire? A. He does have that right.

[544] Q. Mr. Randolph, is it a characteristic of the newspaper industry that the number of men required at any given time may vary widely from day to day and from week to week throughout the year? A. That is true, it does vary.

Q. Does this slip board system provide a flexible means whereby the requisite number of persons can be available at all times to turn out the newspaper? A. It does pro-

vide that kind of a system.

Q. There is one matter I neglected to ask you about, Mr.

Randelph.

In discussing this question of the foreman being a union member, does that have advantages as far as the members of the I.T.U. are concerned? A. Of course.

Q. In what respect? A. I think I answered that once

before, that they-

Q. Perhaps I did cover it. A. They have the knowledge that at least the foreman isn't going to discriminate against them because they are union men. They have the further knowledge that he is a competent man, well versed in the trade processes, and he is most frequently a man who has been promoted up through the composing room, one that we they know is competent.

The whole history, tradition and psychology of the [545] situation is that if you weren't a union man, they just wouldn't work there. That is the feeling of the union people, and it is a valuable asset to the employer to see that he has a harmonious composing room.

Q. With respect to these casual men, men who are not

journeymen nor regular substitutes, does the I.T.U., or its subordinate local unions, or its members, have any interest at all in the manner in which they are hired, or the order in which they are put to work! A. No.

- Q. (By Mr. Van Arkel) Mr. Randolph, is the executive council called on of the International Typographical Union from time to time to decide disputes concerning the relative priority standing of members of the International Typographical Union? [546] A. Yes, frequently.
- Q: In the course of those rulings, what position has the executive council taken with respect to priority of men who have full-time employment at some trade other than the printing trade? A. It is repeatedly ruled, over a great many years, that such members have no priority in any office.
- Q. How are they classified? A. They are classified as not at the trade.
- Q. Under the rule of the union, such men are not entitled to assert any priority? A. That's right.

Mr. Van Arkel: That is all.

## Cross Examination

XQ. (By Mr. Richman) I think it has been clear in your testimony, Mr. Randolph, but I would like to make sure again for the record, that this priority system that you have talked about is a priority system as between members of your union only? A. No; it is a priority system that operates regardless of whether it applies to a member of the union or a non-member.

[547] A. Yes.

XQ. In the Typographical locals, or in the Mailers' locals? A. I know of one briefly referred to a while ago in the Typographical.

Q. One individual! A. One, yes.

XQ. Do you know any in the Mailers' Local! No. You are speaking of journeymen, are you!

XQ. I am speaking of individuals on the priority list.

[549] A. The way it works is that the man's slip would go on the slip board.

XQ I am speaking about mailers. You have been here and heard the testimony of the procedure. Let's confine

ourselves to mailers, please.

Isn't it true that the chapel chairman then would notify the foreman that so-and-so has deposited his card and claims priority as of this particular date! A. Well, I can't say that he would. As a chapel chairman of bygone days, I can only say that the slip on the slip board made it unnecessary for me to do anything about it.

XQ. That is because the slip on the slip board was inserted by the person coming into the shop himself; is that right?

[550] XQ. When you say no union man would attempt to work— A. Without first depositing his card with the chairman and getting—

NQ. Without depositing his card the chairman and what?

A. Becoming known that he is there to work.

XQ. You have heard testimony that in the Daily News card men from outside the News come in and seek work at the Daily News.

These men, to your knowledge, don't deposit their cards with the chapel chairman? A. They couldn't if they had their card deposited in another shop. Their priority is in another shop.

XQ. They are just appearing for whatever work they can get at the Daily News! [551] A. They may appear there on request of the local officer to fill union obligations

to supply help. Sometimes men are not hired in one shop and they will then ask them to go to another to meet a requirement of that shop for that particular night.

XQ. Don't these men also appear on their own without any specific request from local officers? A. They may if

they don't work in their own particular shop.

XQ. Taking again the case of a man coming from outside the city and depositing his card in a shop, if there are non-union extras who normally work in that shop, isn't it a fact that this man, when he deposits his card, will be hired ahead of these non-union extras? A. If by "extras" you mean journeymen—

XQ. No, I don't mean journeymen. A. Our regulations only go to journeymen. The testimony I have heard here is, completely confusing to someone who is not in the industry. I can understand it, but I don't want to get crossed up on this record.

If you mean by "extras" these causal employees that come in two nights a week, I would say that the foreman would naturally hire a journeyman for the work before he would hire one of those.

XQ. Your testimony is also, the reason the foreman would [552] do so is because this man is more competent than these casuals, as you call them! A. He is recognized as a journeyman, and we contract for the employer to hire only journeymen and apprentices to do his work. We can't help it if we can't supply enough people, and we can't help it if he brings in this extra group of people from any walk of life to get the paper out.

XQ. Isn't it a fact that the item, or the thing that signifies to the foreman that he is a journeyman is his card? A. No. The fact of his being a journeymen is established by proof in the means provided for in the contract.

XQ. I notice that the contract of the Mailers and the Publishers' Association defines journeymen as falling into

one of three categories: "Persons who prior to the effective date of the contract worked as such in the mailing rooms of papers signatory to this contract."

That won't include a man coming from another industry, would it? A. Read it again, please.

XQ. "Persons who prior to the effective date hereon"—meaning the contract—"worked as such in the mailing rooms of papers signatory to this contract." A. I would say it speaks for itself.

XQ. I think we can agree on that.

Now, the second category: "Persons who have completed [553] apprentice training as provided in this contract, or have passed a qualifying examination under the procedures heretofore recognized by the Union and the Publishers."

To your knowledge, does New York Mailers' Union No. 6 and the Publishers recognize the standards or the examinations given in other cities of the country! A. I have no knowledge of that.

Trial Examiner: What specifically are you reading from? Mr. Richman: I am reading from Section 20(b) of General Counsel's Exhibit 2.

XQ. (By Mr. Richman) The third category is: "Persons who have passed an examination recognized by both parties to this contract and have qualified as journeymen in accordance therewith."

To your knowledge, do members seeking to throw in their card at a New York mail room have to go through any examination at all! A. I have no knowledge of that.

XQ. But you say the card itself isn't the only indication of journeyman status? A. The union card is evidence of journeyman status.

XQ. You say it is? A. Whether or not it is accepted by the foreman in a particular shop under this particular contract, is another [554] matter. I have nothing to say on that.

XQ. To your knowledge, has any question ever reached your desk on the issue of the rejection by a froeman in a New York City mail room of the card of a member who seeks to throw it in? A. I have had no complaints on that. You might say "place it." He doesn't throw it in; he deposits it,

XQ. Let's use the word "deposit." A. All right.

XQ. Mr. Randolph, this man who seeks to deposit his card in a shop for the first time is, in your opinion — and correct me if I am wrong — more competent to do the work in that shop than the casuals who have been employed in that shop! A. I think so.

XQ. Even though a casual may have been employed in that shop on a steady basis for five shifts a week? A. Well, it is too iffy for me to answer with any degree of certainty.

XQ. I just want your opinion. A. I couldn't express an opinion on that. The circumstances might be different.

XQ. Assume the Daily News situation, where casuals have apparently been working four and five shifts a week. Would this man seeking to come into the Daily News by [555] depositing his card, in your opinion, be more competent than these casuals? A. Generally so, I would say, yes.

XQ. Even though he has never worked in that mail room before? A. I would say yes.

XQ. Isn't it a fact that the mail rooms of various newspapers are different in their manner of operation — not their general manner, but their particular details of operation? A. I don't know how detailed or how different the details are. I haven't visited mail rooms for some time.

XQ. Do you think that all mail rooms are the same!

A. No; I am sure there are differences in the kind of machinery they use.

XQ. So, therefore, a man coming into the shop through the deposit of a card might very well be unfamiliar with the machinery used in a particular mail room? A. It is possible.

XQ. So in that sense wouldn't he be less competent than a casual who has been working in that shop for quite a long time! A. It is possible, but not probable.

XQ. Why do you say that? A. I know just a little bit more about mailing than you [556] do. I answered it that way for that reason.

Generally speaking, mailer members have not always simply been in one shop. Many of them go around to various shops and obtain in their city a pretty good knowledge of the various shops. As you know, they have been working between the different shops even though they are journeymen. So the hypothetical question you asked is rather farfetched.

XQ. I was talking about a mailer coming from an entirely different city, not having previously worked in New York City. A. Again, I can give you no solace on that particular question.

XQ. In answer to Mr. Van Arkel's question about one of the reasons for the priority system, you stated that it was an equitable system of hire, creating an equitable system of hire; is that correct? A. That's right.

XQ. Isn't it correct to say also that this is an equitable system of hire as between members of the union only? A. No. It operates quite to the contrary.

XQ. As far as you know, though, there are no other people in this system in the New York City mailing industry but members? A. Again, you have used some wide language. I have said that I know of no journeymen mailers who are not members [557] of the union in the newspapers in the city. That doesn't preclude there being any. I said I didn't know of any.

XQ. Toward the end of Mr. Van Arkel's examination, and I think some time before that, he discussed the reasons

or the basis for the union's desire for foremen to be union members. I think you gave several reasons.

Am I correct in assuming that it is your firm belief that if a foreman were not a union member, he would necessarily discriminate against union members! A. Yes.

Trial Examiner: What is that based on, Mr. Randolph? What is your opinion?

The Witness: Well, somewhat on experience, and somewhat on the belief that if a man is not with us, he is against us.

Now, the experience has been that where a non-union foreman has shown up, it hasn't been long until the whole shop is non-union. There have been a number of such cases.

What he does is, he comes in as a non-union foreman for the purpose of raiding the place, and he makes it so miserable for our people that one by one they will get out and leave it. There have been a number of those instances.

On the other hand, our union is entitled to all the [558] respect and admiration that any organization in this world is entitled to, and anyone who can't see that, and who is in the industry, in my opinion is very prejudiced against us.

I am completely convinced that any time an employer brings in a non-union foreman, it won't be long until we have a non-union shop.

Trial Examiner: Thank you.

XQ. (By Mr. Richman) What do you mean by a nonunion shop, Mr. Randolph! A. One that makes it so miserable for union people that they can't stay there.

XQ. What is your definition of a union shop? A. Well, the language of the industry has been corrupted by the Taft-Hartley law.

XQ. 4 understand that to be your sentiments. A. We don't use the word "union shop" any more. I don't, because I don't want to confuse it with the Taft-Hartley union shop.

XQ. Before the Taft-Hartley Act came into effect, what was your definition of a union shop? A. A union shop was one employing only members of the union on work processes covered by our jurisdiction.

XQ. You say you don't use the word "union shop"?

A. I avoid it if possible.

[559] XQ. Do you recall the address you made before the recent convention of your union on August 17th, 1957!

A. I talked so much I wouldn't remember any speech I ever made unless I saw it in print.

XQ. I read your Typograpical Journal. You did make a speech, though, on August 17th; I think that was the opening day of the convention! A. I always do.

XQ. Do you recall telling the assembled members: "Since 1944, we have had a nationwide struggle with employers to maintain our general laws as a basis of union

shop operations"? A. That is true.

XQ. You recall saying that? A. Yes. I have said it a thousand times.

XQ. This, then, was a recent use by you of the term "union shop"? A. Did I put "shop" in there?

XQ Yes. A. You didn't read it.

XQ. I beg your parden? A. You didn't read "union shop."

XQ. I read: "As a basis of union shop operations." A. That's as we understand it.

XQ. Isn't it a fact that you used "union shop" here in the traditional sense, in the pre-Taft-Hartley sense? A. [560] That the employer contracts with us?

XQ. That you have had a nationwide struggle with employers to maintain your general laws as a basis of union shop operations"! A. That means the kind of a shop where the employer contracts with us at the present time.

XQ. You have changed, then, the definition of "union shop" by your own words? A. As I said, it has been cor-

rupted. In no sense do I ever want to mean that kind of a union shop that the Taft-Hartley prohibits. The union shop as it is used at any time I use it, means a shop whereby the employer contracts with the local of the I.T.U. for work over which we exercise jurisdiction.

XQ. And which work is done by your members only? A. No; there are some non-union men around here and there in union shops.

XQ. However, when I asked you whether you used this "union shop" term here in the pre-Taft-Hartley sense, I believe you said that you had, and you admitted that you had? A. I didn't answer that particular question. I didn't say yes to that because pre-Taft-Hartley union shop and closed shop were synonymous. Since Taft-Hartley, they are not synonymous.

XQ. However, you told your members that since 1944 you [561] had a nationwide struggle to maintain the general laws as the basis for union shop operations."

In other words, is this the same struggle that is going on from a point prior to the Taft-Hartley to the present day? A. It so happens that in 1944, late in 1944 and in 1945, we had a struggle with the American Newspaper Publishers? Association to maintain the general laws as a basis for union shop operations. The struggle was hardly concluded before the Taft-Hartley Law was adopted and we had it all over again.

XQ. You, I assume, are quite familiar with the provisions of your general laws, and you agree with the sentiment expressed therein and the provisions of those laws?

A. I am bound by those laws.

XQ. I am looking at general laws of 1955, which is General Counsel's Exhibit 4.

Which one do you have in your hand there! A. These are for 1956.

Trial Examiner: I am showing the witness a copy of the 1955 booklet.

[564] Trial Examiner: Let me ask the witness this question first.

With reference to the instructions which were issued [565] and which have been mentioned several times, to the effect that the general laws shall not apply if they conflict with publicdaw or various other laws mentioned, can you explain just what that has reference to as regards the Taft-Hartley Act?

Can you give us an explanation as to how that applies with respect to the Taft-Hartley Act?

I am speaking of that section you read into the record a few times.

The Witness: Throughout the book, which applies wholly in Canada, and in other instances, the word "members" is used. In instances where the members should be journeymen, the word "members" doesn't apply. The fact of any journeyman showing up for work and getting the same treatment as union men, is the one thing that is referred to not to discriminate against union or non-union men.

When the clause he read was written, there had been no test of the Act. That was written in 1947, at the 1947 convention, when we thought it was all invalid. But the Courts speak on it from time to time, and they say which parts are valid, and that's that.

We haven't bothered to change that particular paragraph, but it is just for what it says, if there is anything that is invalid, we want it repealed.

[566] All of our contracts, with virtually no exceptions, have at the end of them that if public law is changed so that previous sections that were taken out because of the Taft-Hartley Law can be reinstated, they will be reinstated.

That is how thorough our fair counter-provisions are understood. Employers have agreed that we have to take these out now, but if the time comes when we can put them back, we will put them back.

As I say, to pick that out and ask me to tell you which of the Taft-Hartley Laws are bad, brother, I will tell you that they are all bad. The Taft-Hartley Law or the amendments made to the Wagner Act—now, the Wagner Act wasn't so bad, but the Taft-Hartley amendments were all bad.

Trial Examiner: Let me ask you this:

Is it your understanding that this clause means that any general laws which conflict with any or all provisions of the Taft-Hartley Act are thereby being suspended?

The Witness: Yes.

Mr. Richman: To which clause are you referring, Mr. Libbin? Is it the clause at the end of the general laws, Article 14?

Trial Examiner: The one which was read into the [567] record several times.

Mr. Richman: That is on page 125. Is that the one you are referring to?

Trial Examiner: Yes.

XQ. (By Mr. Richman) Mr. Randolph, you did not, then, also bother to change the part of the general laws which comes two paragraphs below the part that I asked you about, Article 3 on page 108 of General Counsel's Exhibit 4, namely: "There should not be and will not be any attempt on the part of the International Typographical Union or its subordinate unions to violate any valid provisions of law, federal or state"? That hasn't been changed? A. I don't think so.

XQ. That is in the current issue of the general laws, too? A. Yes.

XQ. The following sentence is also in the current issue

of the general laws: "There will continue to be earnest efforts on the part of those unions to achieve conditions and agreements granting the fullest measure of protection and advantage possible under law!"

That is still current? A. Surely.

[568] XQ. Is it true that you would regard these casuals as a necessary evil? A. Well, we will say they are necessary. I don't know how evil they are.

XQ. The union wants very little to do with them? A. We will say that they are not within the union's contracting scope. They are people who are brought in by the employer to get a job done that has to be done and the union has no way of otherwise meeting that problem with journeymen.

XQ. Does the union consider itself under an obligation to supply the particular shop with competent journeymen? A. Regularly, yes; that is, competent journeymen as a regular force. We don't accept unlimited responsibility to try to supply an unlimited number of people in the circumstance for a day or two a week. That would call for a great many that we couldn't supply. We do try to supply a steady force of regular, competent people.

XQ. Is that an obligation that exists as a result of many years of practice in the industry? A. It is also in many contracts, as well as tradition.

XQ. The contract between the Mailers and the Publishers' [569] Association, I believe, reads, in Section 5 of General Counsel's Exhibit 2, that: "New York Mailers' Union No. 6 was never called upon to supply the office with competent experienced and satisfactory men."

Is it my understanding that this obligation goes beyond the mere calling upon the union? In other words, you don't have to actually call upon the union; the union is under the obligation to supply the shop with the men? A. With regular forces, under that obligation, and it is to its own interest to supply as many as it can for fluctuations of work. It is in the employer's interest, I think, to employ those men.

XQ. Wouldn't it be correct to say that it is in the interest of the union to fill all of the regular positions, or positions calling for a regular amount of work, with members of the union? A. Surely.

XQ. The union, in fact, attempts to do that? A. Well, I don't know just what you mean by that. It is to its interest to have as many of its members employed as it is possible to get employed.

XQ. I believe you told Mr. Van Arkel that it was not possible for the I.T.U. to spell out which of the general laws were not applicable under the provisions of the Taft-Hartley Law.

[570] Do you recall your testifying to that? A. To that effect, yes.

XQ. Therefore, I take it that the I.T.U. has never made any attempt to specify to any particular local, or to the members of the local, which of the general laws should not be utilized by that local in the conduct of its operations? A. We have specified some of the provisions, such as non-discrimination, and such as that they are not privileged to strike to get a union foreman, although they can contract for one.

XQ. That was as a result of the Board's decision, and the enforcement of that decision by the Court, that you couldn't strike to get a union foreman? A. That's right.

XQ. My question was: Has the I.T.U. spelled out to particular locals which of the general laws the local should not enforce or utilize?

[571] A. It has made no attempt to take the whole book and tell them which law they may not adopt or use in any given place.

Trial Examiner: Let me make that question more specific by adding this to it: Because such laws are in conflict with the Taft-Hartley Act.

The Witness: I assumed that in my answer.

Trial Examiner: All right.

XQ. (By Mr. Richman) To your knowledge, has any individual local made known to its membership, or the employers, with which it had contracts, that specific provisions of the general laws were not being applied because they were in conflict [572] with the Taft-Hartley Act!

[573] A. There have been one or two instances where I heard about a local officer telling a publisher that he couldn't have a continuation of a 1947 contract because it was written for the employment of union people only.

XQ. (By Mr. Richman) That was with respect to a

particular contract? A. Yes.

XQ. But with respect to the particular provisions of the general laws, is your answer no? A. They wouldn't know.

XQ. You mean the local— A. The local unions wouldn't know all the different things about the Taft-Hart-ley Law that were contrary to the I.TU.

XQ. Therefore, I take it — and correct me if I am wrong — that you have had no inquiries from specific unions, specifically Mailers' Union No. 6, to your office as to which of the general laws they should or should not follow? A. I may have had, in the course of these eight or nine years —

XQ. Do you recall any as you sit there now? A. I don't recall any for any union, although there were hundreds of them.

[574]. A. I don't understand the question as applying to that section.

XQ. Let me refer you to the exhibit, Exhibit 4 of the

Intervenor, and to the language at the bottom of page thirteen in the right-hand column.

(Witness examines document.)

XQ. There was no enumeration there, either! A. No.

XQ. You were asked about the I.T.U. facilities for teaching journeymen other branches of the trade, other than those for which they are considered competent or qualified.

Does the I.T.U. maintain such facilities for mailers? A. At the present time, no. We have been trying to get some of the new mailing machinery, but we haven't been able to get it installed for that purpose. ·

XQ. Mr. Randolph, a man, in your opinion, or, rather, is it the union's position that a man on a priority list is per se a competent person? A. A man on a priority list?

XQ. Yes; who holds, let's say, a regular situation, or a regular substitute position on that priority list, he is per se competent? A. As far as we know.

May I say that there are such sharp divisions in the kind of product, that a man may be competent in one particular field of endeavor, and might move over to another shopthat specializes in a much higher grade product and he won't be tolerated, he would be fired the first day.

Those divisions are pretty sharp, and men find their particular level based on the kind of a shop in which they

made journeyman.

XQ. Does what you say necessarily apply to the mailers? A. I don't think so.

XQ. You are thinking in terms of a composing room? 'A. That's right, yes.

XQ. If a member of your union is on a priority list, and is suspended by your local union, he loses his position on the priority list; isn't that correct? A. A member of the union who is suspended by the union, you say -

XQ. By the local union, [576] A. Does he lose his position on the priority list?

XQ. Yes. A. No. A man cannot be suspended by a local union until he has had an opportunity to appeal to the executive council, and perhaps to a convention, before any penalty of suspension can be made to stick.

XQ. Has the local union the right to debar a man from

work.

XQ. Yes. A. They bar him from going to a non-union office.

XQ. Couldn't they bar him from working at the office where he held his priority! A. No. There is no provision for that.

XQ. I refer you to Article 4, Section 19, of your by-laws. A. You mean for non-payment of dues!

XQ. For any reson. A. If a man doesn't keep his dues paid up, he can be barred from the office until he pays his dues. That is a fraction of a penalty on a member. If he wants to get out of the union rather than pay his dues, he will stay there.

XQ. But he can be kept from his work as long as he is a member and in default of his dues? A. Yes.

[577] XQ. So it is not a question of his competency as allowing him to work? A. As a member. As a member, he has to comply with these internal laws.

XQ. As a member, he must remain in good standing in order to work! A. Right. If he doesn't want to accept that, he can get out of the union and still work there. We have some people like that, and I don't like to say what we regard them as being.

XQ. I think your by-laws uses the term "rats"! A. That is bad enough, and I can think of worse.

Trial Examiner: Is this an appropriate place to stop for the night?

Mr. Richman: Yes, sir.

Trial Examiner: We will adjourn at this time until 9:30 tomorrow morning.

(Whereupon, at six o'clock p.m., an adjournment was taken to Friday, November 15, 1957, at 9:30 o'clock a.m., at the same place.)

[580] XQ. (By Mr. Richman) Mr. Randolph, is there anywhere in your book of laws a definition of what "good standing" constitutes for a member, or as far as a member is concerned! A. There is, with relation to candidates for office.

XQ. Only as far as candidates for office goes! A. That is a little more technical, and besides the ordinary simple definition is that he has to have his dues obligations paid up. There is a more technical description of good standing as regards candidates for office.

XQ. Would you say that a member, to be in good standing, should adhere to the duties of membership as set forth in Article 12 of your constitution?

XQ. With reference again, Mr. Randolph, to the opening address you made to your assembled members on August 17th. [581] 1957, at their convention, do you recall telling them that: "There are employers in smaller cities who are resisting and refusing the kind of negotiations and contracts upon for our very life"?

Do you recall telling them that! A. Something to that

NQ. Do you recall telling them something to this effect: "There are many unfair employers who are trying to tear down those fundamental principles upon which the L.T.U. has lived for 105 years"? A. If you are quoting from it. I will accept it.

NQ. The quote actually begins with the words "who are

trying" and ends with "years," but the other words are to that effect in the speech! A. I am frequently saying those things. I assume you are quoting from that speech.

XQ. Yes.

Isn't it a fact that you consider this priority system as one of the fundamental principles to which you referred in this speech? A. Yes.

XQ. The official journal of the I.T.U. is the Typographical Journal; is that correct, sir! A. That's right.

XQ. That comes out monthly! [582] A. Right.

XQ. I believe in each month's edition you have a page in which you comment or discuss various problems? A. I have, yes.

XQ. Your signature, I believe, and your picture, usually appear at the top of that page? A. They did until lately when they cut out the picture.

XQ. You are correct, they did. A. The editor is the

secretary-treasurer.

XQ. Do you recall writing in your annual report words your Typographical Journal, words to this effect: The provisions of our general laws are the basis of union shop operations and have been so thoughout the history of the I.T.U. These laws outline the minimum conditions which will suffice in a union contract? A. If you are quoting, I will accept it.

XQ. These are words to that effect? A. Yes.

'XQ. Further, that the I.T.U. president cannot approve a contract unless it complies with the current general laws? A. That's right.

XQ: Then, in that same edition, I believe, was printed your annual report? A. In the July issue, yes.

XQ. Do you recall writing, in the July 1957 edition of to [583], this effect: Our stubborn refusal to capitulate to the Taft-Hartley and other restrictive laws has kept our union alive! [584] A. If you are quoting from it, I will accept it, but the statement requires some explanation.

XQ. (By Mr. Richman) What is your explanation, sir! A. In the beginning of the Taft Hartley Law, the then General Counsel, Mr. Dennom, attacked about everything that we were doing as being illegal, and we refused to accept his attacks and his interpretation of the law, and over some seven years of litigation we proved we knew more about it than he did. His attacks were ruled not legal.

XQ. One further excerpt from your report, Mr. Ran-dolph:

[585] Do you recall a reference to so-called labor experts which you made in your report, and your writing that "Their influence has been overcome by insisting on contracts with unquestioned acceptance of I.T.U. standards provided for in the general laws? A. If you are quoting, I will accept it.

[586] XQ. I think you said yesterday that there is no provision for training mailer apprentices in your International set-up? A. At the present time.

Trial Examiner: When you say "at the present time," does that mean that there was at some time prior to the present time, or that there hasn't been any up to the present time!

The Witness: We are speaking now of the Bureau of Education and the technical school that we operate. Up until now, there has been no specific training for mailers, but we are endeavoring to get new mailing machinery installed in our technical training center to help train them.

Mr. Van Arkel: Mr. Randolph, I think the question re-

[587] The Witness: Well, either journeymen or appren-

tices may be able to attend if we get it established, or when we get it established.

XQ. (By Mr. Richman) Mr. Randolph, isn't it a fact that all apprentices, upon their application, must subscribe for and complete a course of lessons in unionism within ninety days from the date of registration. A. Yes.

XQ. What do those courses in unionism consist of, briefly? A. Well, they consist of a brief history of the International Typographical Union, and its policies and its principles.

[588] XQ. Going again to Article 3 of Section 1 of your general laws, you have a discussion there of your policy with respect to qualifying local unions under the Labor-Management Relations Act.

I have the 1956 general laws. Is that what you have, sir! A. Yes.

XQ. That is the same in the 1955 general laws? A T think so.

XQ. I am referring to page 111, the center of the page. A. Yes.

[589] XQ. I believe yesterday — and correct me if I am wrong — you mentioned that the word "jurisdiction," or the exercise of I.T.U. jurisdiction, means that the particular work under the jurisdiction is to be done only by members of the I.T.U.! A. No, I didn't say that.

XQ. Could you tell me what your definition of jurisdiction over work would be? A. Jurisdiction over work is specified in the book of laws, and is general in terms. It is probably found in more than one place.

XQ. I refer you to Article 3, Section 12, on page 114.

[590] The Witness: What section are you referring to!

Mr. Richman: Article 3, Section 12 of the general laws. A. Yes.

XQ. What is your definition of jurisdiction there, Mr. Randolph?

XQ. What is your definition of jurisdiction there, Mr. Randolph! A. That is not the section that defines jurisdiction, but it is a general statement as to policy and the work and machinery that we try to cover.

XQ. What do you mean by "try to cover"? A. You will notice the last part of it is a direction to local unions to reclaim jurisdiction over and control all composing and mailing room work, or any machinery processes appertaining to machinery and preparations therefor now being performed by non-members.

XQ. In other words, the work that is done by non-members, you endeavor to have done by members insofar as you can? A. That particular section was adopted for the purpose of getting the work which journeymen had allowed to slip away, back into the craft under journeymen. The worst situation in the country is right here in New York in the composing [591] rooms where they carelessly allow them to work processes to be done by other than journeymen, and while they were sleeping and smug in their satisfaction, the Guild organized some of those people.

XQ. However, the words you use in this section, or the words that are used in this section, don't refer to journeymen; am I correct? A. It refers to work that got away from journeymen.

XQ. You say now the work being performed by non-members should be reclaimed? A. This was adopted before Taft-Hartley.

XQ. It hasn't been changed since? A. No. It is referring to that slippage that was allowed in some composing rooms whereby semi-skilled people were allowed to do some work.

XQ. You told us yesterday, I believe, that to you knowledge there are people classed as journeymen who are not members of the union; is that right, sir? A. State that again, please.

XQ. I believe you told us yesterday that to your knowledge there are some people classed as journeymen who are

not members of your union? A. Yes.

XQ. Would this have any application to them? A. No. [592] XQ. Would they be permitted to do the work that they have been doing, even though they are not members? A. Any journeyman who is not a member, and is working in a shop, does journeyman work the same as the journeymen do.

XQ. You wouldn't make any attempts to reclaim the work that he is doing and give it to a union member?

A. That is not what this means.

XQ. Isn't it a fact, Mr. Randolph, that the local union contracts are designed to cover the working conditions of members? A. Local union contracts are for the purpose of establishing wages, hours and working conditions under which our members will work.

Trial Examiner: Mr. Randolph, let me ask you at this point, how do you reconcile your statement with respect to journeymen which you just made, with the provision in the general laws stating that all journeymen must be members?

The Witness: That is what I referred to when I said that there are many times where it appears in this book that members are mentioned and the instructions to our people concerning contracts means that wherever the word "members" is used in this book, it means journeymen as regards the work opportunities of non-union journeymen.

XQ. (By Mr. Richman) Do you have anywhere in your general [593] laws a statement to that effect, that where the word "members" is used, it refers to journeymen

generally? A. The last article of the general laws does that.

XQ. You mean Article 14? A. Yes.

XQ. Article 14 to which we have referred on a few occasions? A. Yes.

Trial Examiner: What does that say?

Mr. Richman: "In circumstances in which the enforcement or observance of provisions of the general laws would be contrary to public policy, they are suspended so long as such public law remains in effect."

Mr. Sugarman: "Public law," I think, is used in both places. I don't think it is "public policy."

Mr. Van Arkel: Public law.

Mr. Richman: You are right; I am very sorry. It is "public law" in both places.

XQ. (By Mr. Richman) Mr. Randolph, I refer you to Article 7 of the general laws, which I believe is the same in the 1955 edition as it is in the 1956 edition, or substantially the same.

Has that article any impact upon mailers? A. Mailing is specifically mentioned in the first section. [594] XQ. You are correct, sir.

In Section 2, there is a reference to a machine office.

Does that have any meaning with respect to the mailing trade, or is that restricted to typographical work! A. It doesn't restrict it. Actually, the section has been in the books so long that it may even antedate the mailing machinery that is in mailing rooms now. We do not have our people trained in mailing rooms on the machinery that is available in those rooms.

XQ. Therefore, Section 2 of Article 7 would have an impact upon the mailing craft? A. Yes; but again let me point out that when we make contracts, I have to approve them as being in accord with this book. When I approve

those contracts, nowhere does the word "members" appear; it is journeymen.

In other words, we recognize only journeymen and apprentices, and the sections of this book that are required to be put into contracts are put in there with the word "journeymen" substituted for the word "members."

XQ. Do you know, sir, whether the word "members" appears in the contracts we have in evidence? A. I don't think they do.

XQ. You don't think so! A. I don't think so. [595] XQ. In Section 23 of General Counsel's Exhibit 3. the provision reads: "That the union"-meaning Mailers' 6-"agrees that it will not contract for its members, nor permit its members to contract with any publisher for work specified in this agreement at wages and hours more favor-

able than herein provided without permitting any publisher signatory to this agreement at any time thereafter to put into effect the more favorable wages and hours that

have been granted elsewhere."

[597] XQ. (By Mr. Richman) Mr. Randolph, are you familiar with this provision that I have read! A. Since you have read it, yes. It appears in a few contracts, and we refer to it as a "favored nations" clause. You couldn't use other than the word "members" in that respect.

I made the statement - and I stand by it - that wherever a contract comes in, or a proposed contract comes in, using the word "members" with relations to job opportunities, it is changed to "journeymen," or any other factor of contract relationship.

XQ. Could you turn again, please, to Article 7 of the general laws, Section 5?

Would that provision have any impact upon mailers? By "impact," I mean involve any work done by mailers.

A. Mailing isn't mentioned there, no.

XQ: None of the daties set out involve the work done by the mailing craft? A. I don't see it mentioned there, no.

XQ: Going to Article 8 of the general laws, under the heading of "Machine Tenders and Machinists," would that Section 1—which is the only section under Article 8—[598] affect the work done by mailers! A. Ves. It is specifically mentioned there.

XQ. Under Article 10, Priority, Section 2, where subordinate unions are directed to establish a system for registering and recording priority standing of members in all chapels, is it your contention, Mr. Randolph, that the word "members" there also means journeymen? A. Yes. That is the way it operates.

Trial Examiner: Just for the education of the Trial Examiner, Mr. Randolph, reference to the phrase "chapel" — is that sort of synonymous with the shop that the local union happens to be the bargaining representative for?

The Witness: Yes. "Chapel" means the composing room portion of the plant, or it may mean the mailing room portion.

For your education, I will say that the word originated in England, and the reason the word "chapel" was used is because the first printing office in England was operated by a Mr. Caxton, who had it located under the King's Wing in Westminister Abbey.

In my office, I have an old-time woodcut engraving of considerable size that shows Caxton and his crew at work producing proofs for the King and Queen, or someone in toyal robe. You can see the arched ceilings of Westminister Abbey in that drawing.

[599] We acquire the word from the English print shops. Trial Examiner: There is only one chapel in an employer's establishment?

Take the News Company. You would say that there is only one chapel established at the News Company?

The Witness: One in the composing room, and one in the mail room.

Trial Examiner: There would be one in each room?.

The Witness: Yes.

XQ. (By Mr. Richman) With separate chapel chairmen? A. Yes.

XQ. Isn't it a fact that one of the duties of the chapel chairman is to see that the general laws are respected and followed insofar as they pertain to the particular operation? A. His duties are set forth in Article 3 of the bylaws, and they are quite specific.

XQ. You are referring to Article 3, Section 2, and Article 3, Section 3? A. All of the sections of that article.

XQ. All of the sections of that article? A. That's right.

XQ. I see that in Article 3, Section 2, it is stated that: "It shall be the duty of the chapel chairman to report to the president of the local union any violation of union law or provision of the contract."

[600] The term "union law" applies — and correct me if I am wrong — to any applicable provision of general laws or the union constitution! A. General laws only.

XQ. Would it include the constitution and by-laws of the I.T.U. also! A. No.

XQ. Is the chapel chairman charged with the responsibility of reporting to his local president violations of law other than affecting working conditions by members. A. We have a system of elections whereby the election are held in the chapels, and he might report something about a violation of our election laws.

XQ. What about cases of conduct unbecoming a member? A. That, of course, might be taken up as an internal matter in the union.

XQ. So, therefore, wouldn't these other things be included in the term "union law" as used here? A. No.

That is not the meaning of it. Our members are generally law abiding. If somebody in the chapel violates any of our internal laws as a union man, obviously having no relation to the employer, it would be reported.

XQ. Wouldn't you say that one of the duties of the chapel chairman is to see that the internal laws of the union are respected and followed! [601] A. No; that is not his business.

XQ. Is he supposed to turn his back when he sees any of these laws violated? A. No; that would be silly.

XQ. What is he supposed to do! A. He is there in his capacity as stated in Section 1 of Article 3: "All offices in which three or more members are employed, a chapel shall be formed and a chairman elected. In case of failure or refusal of a chapel to elect a chairman, it shall be the duty of the local president to appoint a member to act as chairman."

The first line of section 2 says: "The chapel chairman shall be recognized as the representative of the local union for such purposes as are specified in the laws of the International Typographical Union," and so forth.

XQ. Where you just read, "the laws of the International Typographical Union," that word is in lower case letters and apparently doesn't refer to the general laws! Am I correct sir! A.. No; it refers to the general laws.

XQ. Also the general laws? A. It says: "He shall be the representative of the local union for such purposes as are specified in the laws of the International Typographical Union," and then it goes on to say what his duties are.

[602] XQ. I notice that the cover of this particular document, and of all your annual documents of this sort, is headed: "Books of Laws of the I.T.U."

Is it your testimony that the word "laws", as used in Article 3, Section 2, in lower case letters, does not refer to this book of laws as such, and in toto! A. It refers to

the purposes as they are specified in the laws of the LT.U., and Section 3 goes on to provide: "In performing the duties prescribed for him in the general laws pertaining to violations of the contract or scales of prices, and the enforcement of the five-day week, and overtime laws, the chapel chairman shall not be subject to any intervening action by the chapel. As a representative of the local union in such matters he is directly responsible to the local union."

[603] XQ. (By Mr. Richman) Mr. Randolph, in Article 3, Section 3, in the first sentence, you have a specific reference to the words "general laws"? A. Yes.

XQ. Is there any reason why there is no specific reference to the words "general laws" in Section 2, in the place where you say this term "union law" refers to general law? A. I explained before in my testimony that in the general laws we have segregated all of those laws in which the employer has an interest in wages, hours, and working conditions.

[604] It is for the chapel chairman to report to the president anything he thinks is a violation of either the contract or any union law that is accepted and enforceable because of the terms of the contract.

XQ. Therefore, you still adhere to your previous testimony that in Section 2 the term "union law" refers to general law! A. Yes.

XQ. Am I correct in stating, Mr. Randolph, that the local union contracts with employers don't specifically provide for the creation or the maintenance of a priority system! A. I doubt that any contract has a provision for the establishment of the priority system by a specific section, although the use of the word "priority," and the way it works, refers to the priority system established by the union

and maintained historically in the composing and mailing rooms.

XQ. (By Mr. Sugarman) Dealing for a moment with Section 23 of the Mailers' Union No. 6 collective bargaining agreement in evidence, that most favored nation clause, as I think you referred to it, is it not a fact that the word "members" is put in and significantly used in that section rather than [605] "journeymen" only because it is members exclusively over whom the union assumes to exercise discipline? A. That's right.

I may say that the local union might make a contract using the word "journeymen," and we would accept it at headquarters. Actually, the clause is one of the very older clauses, and has been gradually discarded because of the lack of equity in the arrangement.

Where there has been sharp competition and employers felt that the union might allow their members to work in other offices, they are the ones who brought that out. They brought out the desire to have none of our skilled people working in shops that had cheaper production arrangements with the union.

The real thing there is that in most every town there are shops that are operating either non-union, or a larger group of shops that will say, "We will go along with the contract that is in effect, but we don't want to sign it."

It is one of those picayune things that comes up and employers ask for it and they can have it.

XQ. May I ask you, in a general way, Mr. Randolph, whether the union holds out its members as at least presumptively competent journeymen subject to any determination otherwise by the foreman in a mail room or in a composing room? [606] A. All members of the union, by virtue of having been examined and passed upon by local unions as competent, are presumed to be competent. I

should say an examination by the local union and thesemployers.

XQ. Have you some familiarity of your own, from personal observation and visits to the mail room, and perhaps from personal experience, with the work of the mailers in general in the mail room?

Mr. Richman: Objection.

Trial Examiner: The question is whether he has...

Can you answer that yes or no, please?

The Witness: Not too much.

XQ. (By Mr. Sugarman) You are familiar, are you not, with the requirements, nevertheless, for the provision of an apprentice training program for mailers? A. Right.

XQ. If I were to show you an apprentice program setting forth in detail the various activities of the mailers, you wouldn't be able to verify, I take it, from your experience, that these were the qualifications required of the journeyman mailer; is that right? A. I do have under my direction a contract department, and I have a man there who screens these contracts and sees to it that they do provide for apprentice training in each contract.

[607] XQ. I will pass the question with you and get to it through another source. A. May I, by way of explaintion, say also that our third vice president is a mailer, and our constitution requires that he be a mailer in order to be third vice president. Any matters referring to the technicalities in the mailing trade are referred to him. That is the reason why I am not too familiar with the processes in the mail room.

[608] XQ. (By Mr. Sugarman) Have the publishers, to your knowledge, in contract negotiations or otherwise since 1948, ever asked the I.T.U. or its subordinates for a bill of particulars as to what specific provisions of the Taft-Hartley Law the parties were to regard as in conflict with other-

wise applicable I.T.U. or local laws? A. Has who asked for it?

XQ. Have the publishers asked us for a bill of particulars? A. No.

XQ. So that the general language as to provisions of the public law in conflict with I.T.U. general laws is all that was required, and was found satisfactory to the publishers in negotiations? A. They didn't even ask for that. We put that in on our own. The publishers and the employers generally will have their own lawyers to keep them in shape.

XQ. Is an extra as such compensated for his work at the same rate of pay as a regular situation holder, or a substitute covering for an absent regular situation holder? A. You are into that local confusion over the terms of [609] situation holders and substituting extras. We only use the term "extra" when a journeyman is hired by the office for a night's work. The same man the next night might be hired by a regular to sub for him, and he would be a substitute. The term for all of them generally is subs.

XQ. (By Mr. Sugarman) Is it clear to you, Mr. Randolph, [610] that provision is made, at least in the Mailers' Union contract here in evidence, for the payment of fifty cents more than the scale for the shift provided for the journeymen, when an extra as referred to in the contract works a shift other than as a substitute for an absent regular?

Are you aware of that fact? A. Yes. That is generally so where there is any welfare provisions throughout the country. "Around the country" doesn't mean this nondescript group of people who might come in on Friday and Saturday. If they have those provisions here, it is beyond the terms of the contract.

XQ. Do you know whether there is any historic reason for the publishers paying such a premium to the casual

workers or the extras? A. The reason for it is that they agreed with the union to do it, and the reason the union wants it done, so as not to undercut their scale by having people do part of their work in an emergency at a lesser rate; even those people might not be able to deliver.

XQ. Has it also been the part of the willingness of the publisher to pay a premium for that reserve labor pool to the men who show up and who risk walking, or a late start? Yes. The payment of an extra amount of money for those not regularly employed is widespread.

# [611] Redirect Examination

- Q. (By Mr. Van Arkel) Mr. Randolph, in establishments where a slip board is not used, is it the general practice that the foreman maintains a list of journeymen and substitutes in priority order? A. I wouldn't know what the foremen do.
- Q. (By Mr. Van Arkel) When a person goes to work in a composing room or a mailing room, do contracts generally provide that the foreman may have an opportunity to determine whether they are competent? A. When a foreman hires anybody, whether he is union or non-union, he is the one who determines whether they are competent or not right off. Men have been discharged within one shift as not competent. He is the one who hires them; he is the one who judges their competency, and he does that right off.
- Q. Would that apply as well to members of the I.T.U.?
- Q. That is to say, under the applicable contracts, if a foreman feels that a man isn't competent, he has the right to [612] either not hire him or to discharge him immediately! A. It is historic with us that a member of the union is presumed to be competent, and if he goes into a

shop where the work is over his head, and he doesn't perform, why, the foreman discharges him.

- Q. Would you say that in general all of the subordinate unions of the International Typographical Union have members who are employed in shops which don't affect interstate commerce? A. There are some, yes.
- Q. I take it the country has a good many small print shops in it where members of the I.T.U. are involved? A. Yes. That is reflected in the fact that there are over four hundred of our eight hundred unions where we have twenty-five or less members.
- Q. There has been a question raised here about the applicability of the constitution and by-laws of New York Mailers' Union No. 6.

What has been the general practice with respect to the applicability of the constitution and by-laws of local unions? A. It has been a historic principle that the employer is not to be concerned with the internal affairs of the unions, either typographical or mailer. Since 1901, the phrase-ology has been standard in contracts that the local union laws not [613] affecting wages, hours and working conditions, and generally laws of the International Typographical Union shall not be submitted to arbitration.

Local union laws of any kind are not binding on an employer unless specifically stated in the contract. I know of none having that provision in them.

Q. We have discussed here before this clause which makes reference to the general laws of the International Typographical Union.

Do I understand your testimony to be that similar provisions are not made with respect to any rules adopted by local unions? A. They are not made, that's right.

Q. So that the practice in the industry has been that general laws of the I.T.U. may govern conditions not speci-

fically covered by the contract, but not any local laws which may be adopted by subordinate unions? A. That's right.

Q. Mr. Richman read to you certain articles in which you made reference to the general laws of the International Typographical Union throughout the course of the year 1957.

Were those remarks made after the adoption of Article 14 of the general laws?

Mr. Richman: Could I have that question again, please? [614] Trial Examiner: Read the question.

(Question read.)

A. I think he read from the 1957 convention proceedings, so the answer, then, is yes, because the amendment of Article 14 to the general laws was made, I think, in 1953.

Q. Were your references to the general laws made with article 14 in mind? A. Article 14 in the Taft-Hartley Law has been in my mind since adopted in 1947.

As such, they share in the benefits of the union printer's home. The per capital tax of the union is divided as between upkeep of the general fund and upkeep of the union printer's home. If they come down with T.B., or anything else in their apprenticeship, we take them to the home [615] and keep them there until we get them in shape to go back to the trade.

There is one theme through all these seven years that seems to be that we are wrong per se, and I take the position, and have taken it, that we are right per se, in everything we do, and we are fortunate in having the respect and admiration of good thinking people throughout the country because we do those things.

Now, the thought that we pressure an apprentice to become a member of the union is rather ridiculous. They are all very happy to do as soon as they can.

Q. As I understand your testimony, at a time that a per-

son is selected to become an apprentice he cannot at that time be a union member, can he! A. No.

Q. Throughout the first year of his apprenticeship, he

is not eligible for union membership? A. No.

Q. So that any element of potential discrimination because of union membership or non-membership in the selection of apprentices is quite out of the question, is it not?

Q. (By Mr. Van Arkel) Since the passage of the Taft-[616] Hartley Act, Mr. Randolph, have you, to your knowledge, approved for submission, or as a final agreement, any contract which did not spell out the meaning of the word "journeyman"? A. May I have that question again, please?

Trial Examiner: Read the question.

(Question read.)

A. Not to my knowledge.

Q. I take it, then, that the provisions similar to Section 20(b) of the agreement with the New York Mailers' Union No. 6 have been standard throughout the industry since 1947? A. I would say so, yes:

Q. Calling your attention to the clause which refers to the general laws, I believe you have already testified that that clause contains language not in conflict with this contract? A. Right.

Q. So that if any general law of the International Typographical Union purported to impose different conditions than those provided by the contract, the contract would govern, would it not? A. It would, yes.

Q. Quite apart from any question of their legal validity?

A. Right.

[618] Q. (By Mr. Van Arkel) We have had some previous testimony, Mr. Randolph, about the litigation involving the I.T.U. which began in late 1947.

In the course of that litigation, did representatives of the General Counsel undertake specifically to challenge the legality of certain laws of the International Typographical Union?

A. Many of our laws were so challenged.

[619] Mr. Van Arkel: I would like to make an offer of proof.

Trial Examiner: Let me suggest that you make it in question and answer form.

Mr. Van Arkel: Yes, sir.

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Q. (By Mr. Van Arkel) Mr. Randolph, will you state some of the provisions of the general laws which were attacked by the office of the General Counsel in the course of that [620] litigation? A. They attacked the requirement that apprentices take the oath to the I.T.U.; that they study the course of lessons in printing.

They attacked the law requiring that a joint apprentice committee be set up for the training and education of apprentices.

They attacked the law that provides that I.T.U. laws are not to be subjected to arbitration, and that vacations are not to be eliminated through arbitration.

They stated that those provisions of the law were illegal which provided that contracts when entered into must be in accord with I.T.U. law, and must be approved as such by the I.T.U. president.

They attacked as unlawful the law which reserves to members the right to refuse to work on unfair or struck goods.

They claim that the law requiring that composing room work be done by journeymen and apprentices was illegal.

They objected to the law which defines the jurisdiction of the International Typographical Union, and which pro-

vides that the foreman is the only recognized authority in the composing room.

They claim that the law dealing with appeals and discharge cases was illegal.

They claim that all priority laws of any nature were [621] unlawful.

They attacked those provisions of the law which give members of the I.T... the right to employ substitutes.

They claim that the law that foremen and journeymen must be I.T.U. members in good standing was unlawful.

They attacked as unlawful the law dealing with the reproduction of advertising matter.

In addition to those major ones, they attacked a host of minor laws.

Trial Examiner: Does that conclude the offer of proof? Mr. Van Arkel: No. sir.

Q: (By Mr. Van Arkel) Subsequently, when those matters came to the Board or to the Courts, Mr. Randolph, did the Board or any Court enter any finding that any specific law of the International Typographical Union was contrary to the Taft-Hartley Act?

Trial Examiner: Aren't you asking this witness to testify —

Mr. Richman: That is part of the offer of proof. Trial Examiner: That is what I understand.

A. L'don't recall any specifie law was held to be illegal.

Q. (By Mr. Van Arkel) As a matter of fact, at least one of the laws you mentioned, namely, that relating to the [622] reproduction of advertising matter, was specifically tound to be lawful, was it not? A. Yes.

Q. In light of that experience, I will again put the question to you:

State whether or not it would be possible for the I.T.U. or its officers, to specify exactly which laws and under what

circumstances, might not be validly applied. A. We couldn't do that.

Mr. Richman: Mr. Van Arkel, could you tell me when you have completed your offer of proof?

Mr. Van Arkel: Yes, I will.

Q. (By Mr. Van Arkel) These laws, Mr. Randolph, you have already testified, were adopted by delegates to the convention of the International Typographical Union? A. Or by a referendum vote.

Q. As such, are they internal laws of the union, affecting the relationship between the members of the union and their relationship to the International Typographical Union, as well as affecting working conditions? A. Yes.

Q. In any of this earlier litigation, was any limitation placed by any order of the Labor Board or the Courts on the right of the delegates to conventions, or members by referendum vote, to decide which laws they would adopt for their own [623] governments? A. No.

Mr. Van Arkel: That ends the offer of proof.

. Mr. Richman: I move that it be rejected.

Trial Examiner: I will reject the offer of proof.

Q. (By Mr. Van Arkel) Mr. Randelph, at the conclusion of the agreement between the Publishers' Association of New York City and New York Mailers' Union No. 6, there appears in typewritten form a statement signed by you, which reads:

"In order to comply with International Typographical Union laws and procedure only, and without affecting the rights of the Publishers, this agreement is approved as being in compliance with the laws of the International Typographical Union as limited by the Taft-Hartley Law, and the undersigned, on behalf of the Executive Council of the International Typographical Union, hereby pledges as a matter of union policy only its full authority under its laws to the fulfillment thereof without becoming a party

thereto and without assuming any contractual hability as a party."

Now, specifically was this language, "the laws of the International Typographica! Union as limited by the Taft-Hartley Law" designed to carry out the provisions of Article 14 of the general laws! A. Yes.

Q. For how long a period of time has this form of [624] clause been in use? A. That form has been in use since the Taft-Hartley Law was adopted.

Mr. Van Arkel: That is all I have.

Trial Examiner: You read from what exhibit?

Mr. Van Arkel: It is in Exhibits 2 and 3 of General Counsel.

Mr. Richman: I have two or three questions.

# Recross Examination

XQ. (By Mr. Richman) Mr. Randolph, I believe you said that the union considers that its members are presumptively competent? A. No. I said we presume they are competent.

XQ. I am sorry; you are correct.

Therefore, you expect the foreman to hire them, at least to put them on in the first instance, isn't that correct, when they appear for work? A. Well, I don't know what you mean by "in the first instance."

XQ. If a man shows - A. If he needs help, he hires him.

XQ. The foreman is expected to hire a member when he shows? A. Obviously, he is expected to hire a member if a member shows. If there are other people showing who have priority [625] over them, he would hire the other people with the priority over them.

XQ. Will you look at this Section 18 of the New York Mailers' contract, which is General Counsel's Exhibit 3? Am I not correct in saying that this section refers to

people who you would consider substitutes, or who you would term substitutes! A. Do you mind if I read it aloud!

Trial Examiner: It is already in the record.

Mr. Richman: It would burden the record if you did that. Trial Examiner: \*Just read it to yourself. It is already in as evidence.

(Witness examines document.)

The Witness: That refers to — while it says "extras," it refers to what I would consider journeymen.

[626] XQ. (By Mr. Sugarman) Mr. Randolph, do you have any knowledge as to whether or not the so-called casual extras are paid the fifty cents as the substitutes are, or the journeymen are! A. No, I have no knowledge of it.

XQ. You have no knowledge of their not being so paid? A. That's right.

XQ. Does the union alone have control over the quick upgrading of apprentices to journeyman status in the two-year period instead of the six years? A. Apprentices may only be upgraded to a maximum of twenty-four months out of the six years, and then only on approval of the foreman, the local union, and the president of the International Union.

XQ. Is it not required generally, as it is in the case of our local contract, that this would be subject to the joint apprentice committee's approval? A. Where there is a joint apprentice committee, that would be the committee that would exercise the approval.

XQ. Isn't one of the emergency situations taken into [627] consideration in the interest of the Publisher, apart from the interest of the union, that due to military service, upon which so many apprentices have entered, and their veteran rights, the ratio of apprentices to journeymen not be put in imbalance when all the apprentices return at once?

XQ. (By Mr. Sugarman) If you know about that consideration at all, tell us; and if you don't, you might say so. A. The returning service man caused considerable upgrading because they tried to make up in their training for lost time while they were in the service. That was the purpose of increasing the amount that they could be upgraded from one year to two years within the last two or three conventions.

The upgrading of apprentices helped supply journeymen, [628] but where there was not enough apprentices to meet the growing needs, and the employer hired people just willy-nilly, some of them who worked long enough and often enough acquired enough competency that the employer was willing to accept them, and then, under the Section I read, subsection (g) Section 3 of Article 16 of the by-laws of the I.T.U., local unions were permitted to accept them as members.

[629] XQ (By Mr. Van Arkel) Just in line with what Mr. Sugarman was inquiring about, Mr. Randolph, do contracts generally provide that substitutes get paid less than journeymen? A. No.

XQ. Or that apprentices get paid less than journeymen? A. Apprentices are on a graded scale, usually beginning with forty percent the second year, and running to ninety-five the fifth year.

XQ: So, if an apprentice were upgraded to a journeyman, it would mean that he would be entitled to higher wages? A. Right:

XQ. The employer would have to pay the higher wages?

XQ. The consent of the employer is therefore essential to upgrade an apprentice to a journeyman? A. Right. Mr. Van Arkel: That is all.

Trial Examiner: Any further questions!

[630] Mr. Van Arkel: I object to that. We have concluded with the testimony of Mr. Randolph and now we hear that the complaint is going to be amended.

Mr. Van Arkel: This is an awfully late time to do it when the principal witness on this matter has concluded his testimony.

Trial Examiner: With the General Counsel's statement that he has no further questions.

Mr. Van Arkel: That doesn't help my situation.

[631] Trial Examiner: Your objection is noted for the record.

# [631] . Further Redirect Examination

- Q. (By Mr. Van Arkel) Mr. Randolph, do you have with you a copy of the laws? A. Yes.
  - Q. Are you looking at the 1956 laws? .A. Yes.
- Q. Reference has been made here to Article 1, Section 3 of the general laws, which states that: "Upon application of apprenticeship, all such apprentices must subscribe for and complete the lessons in unionism within ninety days within the date of registration as provided in Section 10 of this article."

Are the course of lessons in unionism referred to there the same as those referred to in Section 10 of Article 1, Mr. Randolph ! A. Yes.

- XQ. Notably, this course of lessons should include the course on trade unionism? A. Yes.
- [632] Q. I note that Section 10 states that: "Beginning with the second year, apprentices shall be enrolled and complete the International Typographical Union course of lessons in printing."

Is that also the requirement of Section 3! A. Section is to exempt mailer and machinist apprentices from the course of lessons in printing for printers. It requires that they should take the lessons in unionism, and they take them at the beginning of their second year when they apply for apprentice membership.

In other words, if they apply for apprentice membership, they subscribe for the lessons in unionism, which is a part of their requirement for apprentices.

Q. If they are printer apprentices, also for the course of lessons in printing; is that correct? A. Right.

Q. Does that requirement apply to an apprentice who does not apply for apprentice membership? A. No, it wouldn't, although I don't know of any that haven't applied. It wouldn't apply if he didn't want to apply for apprentice membership.

Q. Is there anything in the laws which requires apprentices to become members of the I.T.U.? A. No.

Turning to Section 7 of Article 1, "At the end of the [633] first year, if the apprentice proves competent and the foreman and apprentice committee recommend him b for apprenticeship membership, he must be admitted into the union as an apprentice member?"

Does that mean that the local subordinate union has no choice but to admit him if he applies? A. All things being proper as regards his character and competency to become a printer; that is if there is no argument about it. Actually, I have known of no argument about it. There have been no appeals that have come up on that point. Inasmuch as the union and the employer are represented in the recommendation, it just operates automatically.

Q. But if the apprentice were otherwise qualified, I take it the meaning of Section 7 is that a subordinate union must admit him into the union as an apprentice member? A. Yes.

Q. Does Section 7 require that apprentices become members at the end of the first year? A. No.

Q. Turning to Article 7, Section 2, in machine offices under the jurisdiction of the International Typographical Union, is there any distinction between the word "jurisdiction" as used in the general laws of the I.T.U., and specifically in this section, and the term "appropriate bargaining unit"! [634] A. No. We have been using the words "jurisdiction," and the "appropriate bargaining unit" together in our contracts.

I must say that the sections mentioned do not indicate all of the work procedures over which we exercise jurisdiction. That is found in other sections of the general laws.

Q. You say that it has been common practice in contracts to include a provision that "the jurisdiction of the unit and the appropriate unit for collective bargaining are defined as", and then specifying the particular work tasks covered thereby? A. Yes.

Let me add that the word "jurisdiction" is handled two ways in the book of laws. We refer to a geographical jurisdiction of a local union as the corporate limits of the city within which it is located, unless it is extended by authority of the council.

That word "jurisdiction" refers to geography.

Trial Examiner: Territory?

The Witness: Yes.

The other one refers to work processes.

Q. (By Mr. Van Arkel) Would it be possible to enter into a collective bargaining agreement without defining what jurisdiction was covered by such an agreement?

Mr. Richman: Objection, unless it is made more specific. Has any local ever entered into that [635] agreement—anything is possible.

Trial Examiner: To your knowledge?

A. We will say it is not legal for any union to do that.

The jurisdiction must be covered in any contract that is approved by the president of the I.T.U.

Q. (By Mr. Van Arkel) If a collective agreement is to have meaning, is it true that that collective agreement must spell out the work tasks which are to be covered by the agreement? A. That is true.

# Further Recross Examination

[636] XQ. It is not issued to any apprentice who has not become a member! A. It wouldn't be. You are asking about something that I don't know has ever happened. I can only say that if an apprentice refused to make application for apprentice membership, it wouldn't interfere with his continuity as an apprentice, but he wouldn't be getting a working card as a union apprentice member.

A union journeyman has a working card in his possession at all times.

XQ. Am I correct, then, in assuming that without such a working card, an apprentice wouldn't be able to be employed in any shop? A. No. I just testified to the contrary.

XQ. I am showing you General Counsel's Exhibit 3, Section 2(a), and I just want to check with you to see whether the term "appropriate bargaining unit" is used there in conjunction with jurisdiction. A. It doesn't appear to.

XQ. Therefore, there are contracts which you have approved which don't contain those two phrases which you say usually are found in contracts? A. Obviously, this one is. We generally try to get it [637] in there. It is not so vital that we would stop a contract for not having it in there.

### HARRY S. DUFFY

[1070] called as a witness by and on behalf of the Intervenor, and having been first duly sworn, was examined and testified as follows:

# Direct Examination

[1071] Q. (By Mr. Van Arkel) Give the reporter your full name, please. A. Harry S. Duffy.

Q. What is your address! A. 36-46 Bernard Drive,

Wantagh, Long Island.

- Q. Where are you presently employed? A. At the headquarters of the New York Typographical Union No. 6.
- Q. In what capacity? A. I am the assistant benefit clerk.

Q. Is that a full-time job? A. Yes, sir, it is.

Q. Do you presently hold priority in any newspaper in New York! A. No, sir, I don't. I hold a priority in a commercial shop.

Q. Where do you hold the priority? A. At Publishers'

Printing, Rogers-Kellog Corporation.

Q. When you finish your stint with the union, will you be able to go back to work in your priority order at that shop? A. Yes, sir, I will.

Q. What are your duties in the position you have described? A. As the assistant benefit clerk, I am in charge of the [1072] employment bureau of Typographical Union No. 6.

Q. Will you tell us in a few words how that operates?

Mr. Richman: May I object to that?

As far as I know, Typographical Union No. 6 does not concern itself with mail rooms.

Trial Examiner: Let's see what this leads up to. I will permit the question at this time.

A. Briefly, the operation of the employment bureau

works on the basis that various employers - that is, commercial shops in the city - will call up the employment bureau asking for help of any particular nature.

At the same time, various unemployed people will come to the employment bureau trying to be placed in a particular shop so that I will try to be the liaison individual, so to speak, between the employer on the one hand who is looking for help, and the unemployed man who is seeking work.

Q. Do you ever have requests for assistance from persons who are not members of the International Typographical Union? A. I have had seen such cases arise, sir.

Q. If such person makes application to you for help, what do you do? A. If the individual is a non-member of the union, or a non-union journeyman, I will refer him to the organizer, who will refer him to the New York School of Printing where a competency test will be given him. [1073] The results of the test are sent to the union organizer. If he has passed that test, the man is referred to me, and if at that particular time there is a call from an employer, we will send that man out to cover the job.

Q. Have you sent such persons who were not members of the union out to work when they have demonstrated their

competency! A. Yes, I have.

Q. Are you familiar with this School for Printing!

Mr. Richman: I want to note a continuing objection, if you didn't understand it as such, to this whole line of questioning.

Tajal Examiner: Is it a fact that this employment bureau does not cover mailers!

Mr. Van Arkel: That is correct.

Trial Examiner: Then what is the relevancy here!

Mr. Van Arkel: The evidence already shows that the contract provisions which deal with printers are substantially identical with those which deal with mailers,

I am attempting to show here that these contractual provisions in New York do operate non-discriminatorily to allow non-union journeymen to be placed in jobs.

Trial Examiner: If this practice does not apply to mail

ers, how will that be relevant?"

Mr. Van Arkel: To show that these contractual provisions can be and are lawfully applied.

[1074] Trial Examiner: You are referring to the I.T.U.

Mr. Van Arkel: Yes. This is in behalf of the I.T.U., to show the legality of these proceedings.

Trial Examiner: I will overrule the objection.

Q. (By Mr. Van Arkel) Are you familiar with the School of Printing, Mr. Duffy? A. Generally speaking, I am, yes.

Q. Who are the persons who give these competency tests?

A. The people who give the tests are employees of the Board of Education of the City of New York.

Q. Does this school operate under the Supervisor of the Board of Education of New York City? A. Yes. Actually, it is under the direct supervision of the Board of Education, and—yes, that's it. It is direct supervision of the Board of Education.

Q. Do you know from what sources it gets its funds, the school! A. I imagine that the direct source comes from the tax structure of the City of New York.

Mr. Richman: Is that so, or is this witness just imagining?

The Witness: Actually, when you talk about the school being under the direct supervision of the Board of [1075] Education, that it is. However, if you talk about, or if you bring into the picture the system under which our apprentices receive their training at the school, then it is also jointly paid for by the union, and also jointly paid for by the employer.

So, in a sense it could be considered a three-way set-up. But it is constantly under the supervision of the Board of Education.

- Q. (By Mr. Van Arkel) Are apprentices at the trade—do they go to school there five days a week! A. Would you repeat the question?
- Q. Do apprentices at the trade attend this school five days a week! A. No, they don't. Actually, what the provisions are is that apprentices go to school one day a week, half of which time is on the employer's time, and the other half is on the apprentice's time.
- Q. Is this a form of supplementary education in addition to their experience on the job? A. Yes. That is its main purpose, to supplement their training.
- Q. Do they have at this school the equipment and machinery necessary to give these competency examinations that you described? A. Yes, sir, they do.

[1076] Mr. Van Arkel: That is all I have.

Trial Examiner: Do you have any questions, Mr. Sugarman:

Mr. Sugarman: No, I have none.

Cross Examination .

- XQ. (By Mr. Richman) Mr. Duffy, who again do you say you send to the school of printing for competency examinations? A. Who do we send?
- XQ. Yes. A. Actually, the membership committee will refer applicants for membership to the school for their competency tests. Also, the representatives, or the organizers, will refer non-union journeymen to the school for their competency tests. The apprentices take their competency tests there, too
- XQ. I think you said that if a non-member comes to you looking for work, you refer him to the organizer? A. That is true.

XQ. And the organizer will then send him to the school for a competency test? A. That is correct.

XQ. Is it not true that your employment bureau gets requests for assistance in finding work for members of the union coming in from outside New York City looking for positions? A. Occasionally it happens that members of the union [1077] who come in from other jurisdictions will come in to see me and see what the work situation is.

XQ. Normally, then, do I take it that members coming into the city won't come to your bureau? A. Yes, sir, that's

right.

XQ. Most of these members coming in from outside the city go to look for work on their own at the various shops of the city? A. They may answer ads in the newspapers, the help wanted ads; and sometimes they come to me.

- XQ. Isn't the method usually used by these members coming in from outside the city to go themselves to the various shops where they think they would like to work, or where they think they can find employment? A. I think if there is such a thing as an average, the general man who comes into the jurisdiction in New York may not be familiar with the various shops, and accordingly he will come in to me for whatever help or assistance I can give him, because he may not know where the plants are. He will ask directions how to get to those places, and things like that.
- XQ. When a member does come in to you looking for work, do you refer him to the organizer? A. If a member comes in?
- XQ. Yes. [1078] A. No, I don't refer him to the organizer.
- XQ. Is this man sent to the New York School of Printing for a competency examination? A. No, he is not.
- XQ. You assume that he is competent; is that correct! A. I assume that he is competent on the basis that he holds membership in the union.

# OLD CONTRACT

#### Section 3.

Day work shall be between 7 a. m. and 6 p. m. Night work shall be between 6 p. m. and 7 a. m.

#### Section 4.

When necessary, owing to the exigencles of business, there may be arranged a split, shift of seven and one-half house extending from day to night, or from night to day. Pay for such work shall be at the regular night rate. An extraordinary or "lobster" shift between 9 s. m. and 9 a. m. shall be fixed by mutual agreement as to wages.

### Section B.

All journeymen shall receive not less than at the rate of \$96.00 a week, \$19.20 a shift, \$2.56 an hour for day work; and not less than at the rate of \$100.00 a week, \$20.00 a shift, \$2.6635 an hour for night work from January 1, 1953 to December 31, 1953. They shall receive not less than at the rate of \$99.00 a week, \$19.80 a shift, \$2.64 an hour for day work, and not less than at the rate of \$103.00 a week, \$20.60 a shift, \$2.7425 an hour for night work from January 1, 1954 to December 31, 1954.

### Section &

Nothing herein contained shalf be construed as reducing the hourly wage of those on any job getting more than the scale calls

#### Total 7

The minimum scale for apprentices shall be in proportion to the journeymen's scale for day and plant work as follows:

| for day died my | First Six | Second Six |
|-----------------|-----------|------------|
|                 | Months    | Months     |
| First Year      | 40%       | 46%        |
| Second Year     | 52%       | 50%        |
| Third Year      | 4%        | 70%        |
| Fourth Year     | 78%       | 82%        |
| Fifth Year      | 90%       | 90%        |
| Sixth Year .    | 90%       | 90%        |

### Section 8.

Any member, who, by reason of advanced years or other causes may not be tapable of producing an average amount of work, may by agreement between the employer and union be employed at less price than is called for by this scale.

# PARTICLE IN

#### Seatlen 1

Apprentices may be employed in the ratio of one to every five journeymen regularly employed on each regular shift until four apprentices have been employed, then the ratio shell be one to every ten fourneymen. Not established the permitted more than ten appearables. Apprentices shall at all times be under the same supergision and control of the foremen as ether employes in the composing room.

#### Seatles 2

'Apprentices shall be not less than 18

# UNION PRC-OSAL

### SAME AS OLD CONTRACT

# Section 4.

When necessary, owing to the exigencies of business, there may be arranged a split shift of six hours extending from day to night or from night to day. Pay for such work shall be at the regular night rate. An extraordinary or "lobster" shift between 9 p. m. and 9 a. m. shall be fixed by mutual agreement as to wages.

All journeymen shall receive not less than \$112.00 per week for day work and not less than \$128.80 per week for night work.

Payment of wages shall be made weekly in cash of convenient denominations not later than 48 hours after the close. If the composing room fiscal week.

When bank holidays fall on a pay day, members shall be paid off on their preceding working shift.

When any slide day of employee falls on pay day the slide employee shall be paid on the preceding working day.

## SAME AS OLD CONTRACT

### SAME AS OLD CONTRACT

DELET

SAME AS OLD CONTRACT

#### Section 2

Apprentices shall be not less than 18

XQ. You won't make the same assumption with respect to a person who is not a member and comes to you for assistance? A. No, I won't make that assumption.

May I elaborate on that?

XQ. Not for my benefit at this time. A. All right. Mr. Richman: No further questions.

# Redirect Examination.

Q. (By Mr. Van Arkel) Mr. Duffy, is the examination that is given to persons that you refer to the School of Printing the same examination which is given apprentices before they can qualify for journeymen members in the union? A. Yes, sir, it is.

Q. You wanted to add something to your answer about the reasons why you assumed that persons who don't have. a card in the union must take an examination? A. I wanted to say that a member of the International Typographical Union, before he did become a member of the [1079] union, had to pass an examination. That examination precluded that if he passed, it stated that he was competent.

With the non-union journeyman, we don't know exactly how many years he may have had at the trade at that particular time, and we don't know if he is competent. Therefore, that is why we do have to send him for a competency

- Q. Have there been cases where some of these men have failed to pass the competency test that was given them? A.
- Q. Do you have any figures on that? A. I can say this, and it will have to be general: Under the contract, the employer has the right to send anybody up to the school, any non-union journeyman up to the school, to take a test. There may possibly have been at least fifty such people referred to the school since the language in the contract is as it is.

Approximately half of these people failed their test, and the other half passed it. Those who did pass their tests went to work immediately in the shop from which the management or the foreman sent them,

Mr. Van Arkel: That is all I have.

# Recross Examination

- XQ. (By Mr. Richman) I take it—and correct me if I am wrong—that all those who passed the tests were then offered membership in the I.T.U.? [1080] A. I would say that all those who passed their test sought membership in the I.T.U.
- XQ. The competency examination that members take are different in different cities; is that so? A. I am inclined to think so, yes.
- XQ. You wouldn't know, therefore, exactly what the examination in a city like San Francisco entailed, would you! A. No; I have never seen their examination.
- XQ. However, you still presume that a member coming from San Francisco is competent to work in New York City; is that correct? A. Yes. I would say that he was competent for the simple reason that the examination, having been given by printers, that they possibly are the best judge of what a competent printer is, in the same sense that a carpenter would be the best judge of who a competent carpenter was, or a lawyer would be the best judge of who competent lawyers were.

Mr. Richman: I have no further questions.

XQ. (By Mr. Van Arkel) Were all of those who passed this competency test given membership in the International Typographical Union when they made application? A. The local union rejected three of their applications for membership. Under the laws of the union, the rejected applicant for membership has the right of appeal to the [1081] executive council of the International.

THURSH PROPOSAL

foreman and chairmen shall see that apprentices are afforded every opportunity to learn the different trade processes by requiring them to work in all classifications of the trade. When apprentices show proficiency in one branch, they must be advanced to other classes of work. Arrangements must be made to have apprentices in their fifth and sixth years instructed on any and all type-setting and type-casting devices in use in the office where they are employed. If when an apprentice reaches the beginning of his sixth year, he has not been afforded apportunity to learn the various type-casting devices in said office, he shall be permitted to spend at least three (3) fhours each day during his sixth year being instructed on said devices.

foreman and chairman shall see that apprentices are afforded every opportunity to learn the different trade processes by requiring them to work in all classifications of the trade. When apprentices show proficiency in one branch, they must be advanced to other classes of work.

The following schedule shall be observed

for the proper training of apprentices:

First Year—Proofing and correcting galleys; sorting and storing leads, slugs, base furniture, cuts and other materials: learning various type sizes and faces; holding copy and assisting inconfronds.

Second Year—Use of base, flat costs and electros; use of saws, mitering properties, and material-making equipment; ad composition, including proportion, display, use of borders, ornaments, grouping of type masses and relationship of type faces and their

Third Year—Advanced ad composition; placing of ads; makeup of news, editorial and classified pages; lockup of forms for stereotype room; operation of type casters and material-making machines.

Fourth Year—Mark®p of all classes of copy for markines: laveut of ads. Including rolar work; advanced phases of general composing work; reading of all classes of proofs.

Fifth Year—To be spent in learning all line-rasting machines used in composing room—Linetype, Intertype, etc.

Sixth Year—Entire sixth year to be spent on advanced operation of all line-casting machines or any other machinery or equipment which functions as a substitute for or the evalution of the typesetting process.

#### Section 3.

Foremen and chairmen will comprise joint committees charged with the duty and responsibility of making provision for the proper training of apprentices. They shall see to it that every opportunity be given to learn each and every branch of the trade with the end in view of turning out finished, competent, all-around journeymen of the completion of apprentice's training period.

Duties of apprentices shall include only composing room work and they shall not be used in any other capacity.

Fallure on the part of either the Foremen or Chairmen to comply with this section shall immediately be taken up by the parties hereto, and an arrangement provided for the proper care and training of apprentices as intended in this section.

The party of the first part will in no way hinder the Union in its appointment of a committee to observe and record; the work and progress of apprentices, said committee to assist the Chairmen in their evaluation of an apprentice's progress.

#### Section 4.

Apprentices shall be given the same protection as journeymen and shall be governed by the same shop rules, working conditions and hours of labor. SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

The International, or the executive council, reversed the local union on two particular instances, and ordered the local union to admit the two applicants to membership.

In the third instance, the executive council of the International sustained the local union in not admitting the one man that it had rejected to membership. However, this man has continued to work in the composing room under the same situation as anybody else.

XQ. Did those who passed this competency test go to work before their applications for membership were passed on by the local union? A. Yes, sir, they did.

Mr. Van Arkel: That is all I have.

Trial Examiner: Anything further!

XQ. (By Mr. Richman) I believe Mr. Randolph told us, and I would like to confirm, that this one man who wasn't admitted to membership had performed an act which the union considered of a serious nature, and that would definitely disqualify him for membership? A. He did.

# GENERAL COUNȘEL'S EXHIBIT 2

# WORCESTER TYPOGRAPHICAL UNION NO. 165

Instituted 1885

Meets First Sunday in the Month

Worcester, Mass.

Aug. 21, 1956

Mr. Richard C. Steele, Gen. Mgr. Worcester Telegram Publishing Co. 22 Franklin Street Worcester, Mass.

Dear Mr. Steele, .

In compliance with the Taft-Hartley Law, Section 8 (d) (1), you are hereby notified that sixty days hereafter any agreement, written, verbal or implied, or any conditions of employment or other understanding now in effect between the Worcester Telegram Publishing Co. and Worcester Typographical Union No. 165 will terminate.

We hereby offer to meet with you for the purpose of negotiating an agreement with respect to wages, hours and other terms and conditions of employment.

Two copies of our proposal are enclosed. Additional copies are available if desired.

Respectfully yours, (signed) James J. Quinn President

# OLD CONTRACT

THIS AGREEMENT, made and entered into this twenty-seventh day of March 1953 by and between the WORCESTER TELEGRAM PUBLISHING COMPANY, through its authorized representatives, the party of the first part, and WORCESTER TYPOGRAPHICAL UNION No. 165, by its officers, or a committee duly authorized to act in its behalf, party of the second part, shall be effective beginning January 1, 1953, and ending December 31, 1954.

#### ARTICLE I

### Soutien 1.

Party of the first part hereby recognizes the party of the second part as the exclusive bargaining representative of all employes covered by this Agreement. The words "employe" and "employes" when used in this contract apply to journeymen and apprentices.

### Section 2:

All composing room work shall be performed only by journeymen and apprentices. Apprentices may be employed only in accordance with the ratio of apprentices to journeymen provided in Article III of this contract:

#### Section 3.

The jurisdiction of the Union is defined as including all, composing room work in shape covered by this contract and includes classifications such as hand compositors, hype-setting machine operators, make-up man, bank men, ad men, proofreaders, machinists for typesetting machines, operators, and machinists on all mechanical devices which cost or compose type or slugs.

#### Section 4:

The party of the first part agrees that it will not, during the life of this contract, in-

# UNION PROPOSAL

THIS AGREEMENT, made and entered into this day of , 1956, by and between the WORCESTER TELEGRAM PUBLISHING COMPANY, through its authorized representatives, the party of the first part, and WORCESTER TYPOGRAPHICAL UNION NO. 165, by its officers, of a committee duly authorized to act in its behalf, party of the second part, shall be effective beginning Oct. 1, 1956, and ending Dec. 31, 1957.

### SAME AS OLD CONTRACT

# SAME AS OLD CONTRACT

#### Section 3.

1 Jurisdiction of the Union and the appropriate unit for collective bargaining is de fined as including all composing room work and includes classifications such as Hand compositors; typesetting machine operators; makeup men; bank men; proofpress op tors; proofreaders; machinists for types machines; operators and machinists on all mechanical devices yearch cost or compositype, slugs, or film; operators of tape perforating machines and recutter units for us in composing of producing type; operators all phototypesetting machines (such as hisetter, Photon, Lincollim, Manaphoto, County setter, Photon, Linofilm, Monophoto, Cokney, Liner, Filmotype, Typro, and Hodego); emproyes engaged in proofing, wastes, as paste-makeup with reproduction proges processing the product of photohypesetter machines, including development and wasting; laste-makeup of all type, hand little motories allustrative, border and decorative motories. constituting a part of the copy; ruling proofing; correction, alteration, control of the posternation of the posternation control of the posternation control of the posternation of the particles of the particle all photostats and prints u letterpress work and Inclue and positive proofs of Thus Velox) where positive proofs of without significant of quality, or efforts. The Employer shall me contract covering work as deer specially no contract using the ping" to cover any or me work ticned

#### Section 4.

Unless otherwise specified in this agreement all teletypesetter tape shall be perfor-

Section 5

The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union. In the obsence of the foreman, the foreman-in-charge shall so function. Provided: That nothing in the section shall be construed to conflict with the right of the members holding situations to employ competent substitutes without consultation or approval of foremen.

All time covered by this Agreement belongs to the office and employes shall (temporarily or permanently) perform any duties performed by journeymen and apprentices assigned to them by the foreman. No man shall be allowed to leave the office during working hours except with permission of the foreman.

The Union shall not discipline the fareman for carrying out written instructions of the publisher or his representatives authorized by this Agreement.

The foreman shall not be subject to the maximum hours of a day or night shift provided for in this contract, nor shall he be limited to the maximum days per week set forth in this contract; Provided that if the foreman performs any duties of a journeyman, then he shall be classified as a working foreman, and shall be governed, by the same rules as apply to journeymen.

### Section &.

In view of the agreement in Section 2 hereof that only journeymen and apprentices are to be employed, and since it is the desire and intent of the parties to assure, befor as possible, the continued mainten-nce of a high degree of skill in the jour-neymon classification and a corresponding igree of quality and quantity of production, it is mutually agreed that journeymen are defined as: (1) Persons who, prior to the effective date hereof, worked as such in the composing rooms of employers signobry to this contract; (2) Persons who have completed approved apprentice training as of In this contract, or have passed a qualifying examination under procedures heretofore recognized by the Union and the employers; (3) Persons who have passed an examination recognized by both parties to this contract and have qualified as journeymen in accordance therewith. Persons seeking to qualify as journeymen shall be given on examination under non-discriminatory dards and procedures established by the parties hereto (or the Joint Standing Committee) by importial examiners qualified to judge journeyman competency selected by the parties hereto (or the Joint Standing Committee.) in the event agreement cannot be reached on the standards or procedures to be followed, or the examiners to conduct such examinations, the dispute shall be subwhose decision shall be final and binding on the parties. In hiring new journeymen employes, the foreman may not exclude as candidates for employment any individuals who have established competency as journeymen, but SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

# OLD CONTRACT

soom. Third: Individuals concerning whose tompetency as journeymen the foreman has no reason to doubt, or persons who have registered for employment after having passed the examination hereinbefore mentioned.

### Section 7.

This contract alone shall govern relations between the parties on all subjects concerning which any provision is made in this contract, and any dispute involving any such subjects shall be determined in accordance with Joint Standing Committee provisions.

The General Laws of the International Typographical Union, in effect January 1, 1953, not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract.

### Section 8.

Nothing contained herein shall be construed to interfere in any way with the creation or operation of any rules not affecting wages, hours or working conditions and not in conflict with low or this contract by any chapel or by the Union for the conduct of its own affairs.

It is agreed that fruitless controversies must be avoided and every effort made to maintain good feeling and harmonious relations. To accomplish this, both parties will fin every instance give prompt attention to disputes and will in good faith endeavor to settle all differences by conciliation. Under all circumstances business shall be continued in a regular and orderly manner, without interference or interruption, spending a decision.

#### Section 7.

The party of the first part agrees not to require employes covered by this Agreement to process material received from a destined for a job shop or newspaper plant in which an authorized strike by or lockout of a subordinate union of the International Typographical Union is in progress. The Union will give the publisher twenty-four (24) hours notice that a strike or lockout is in progress before the processing of materiels may be stopped in accordance with the foregoing provision.

### Section 10.

A standing committee of two representatives appointed by the party of the first part, and a like committee of two representatives ointed by the party of the second part, shall be maintained; and in case of a vacancy, absence or refusal of either of such representatives to act, another shall be appointed in his place. To this Joint Standing Committee, shall be referred all discharge cases and all disputes which may arise as, to the construction to be placed upon any clause of the Agreement, except as provided otherwise herein, or alleged violations thereof, which cannot be settled otherwise, and such Joint Standing Committee shall meet within ten days from the date on which any question of differences shall have been referred to it for decision by the ex-

# UNION PROPOSAL

### Change for Second Paragraph

The General Laws of the International Typographical Union, in effect at the time of execution of this agreement, not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract.

# SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

ment to appoint two arbiters, and the four

to agree upon a fifth.

The Board of Arbitration thus formed shall proceed with all dispatch possible to settle the dispute. It shall require the affirmative votes of at least three of the five members of the Board of Arbitration to decide the issues, and the decision of the local Board of Arbitration in all cases shall be final and binding on the parties hereto. The decision of the Board of Arbitration shall be legal and binding when signed by a majority.

If a discharged member be reinstated by the Joint Standing Committee, said member shall be paid for lost time. Provided, in no case shall reimbursement be in a sum greater than the working time educity lost multiplied by straight time rates therefor, as provided in the contract. From this amount shall be deducted all earnings elsewhere.

Provided: That local Union laws not effecting wages, hours or working conditions and herein accepted general lews of the international Typographical Union shall not be subjected to arbitration.

### Section 11.

If is agreed that if any terms affecting wages, hours or working conditions, better than ar different from those given in this Agreement, or any concessions whateve are allowed by Worcester Typographical Union No. 165 under contract to any publisher of a Worcester daily or Sunday newspaper or Shopping News or Guide during the life of this Agreement, those said better or different terms or concessions, all or in part, at the option of the office desiring them, shall be allowed immediately by the Union to the publisher.

# ARTICLE II

All work by machine or hand shall be on a time basis as follows:

### Section 1.

Seven and one-half hours shall constitute a day's work; five days shall constitute a week's work.

### Section 2.

# UNION PROPOSAL

SAME AS OLD CONTRACT

## Section 11.

It is agreed that if any terms affecting wages, hours or weeking assettions, better than or different from these chan in this Agreement, or any consessible effective are allowed by Worcester Typigraphical Union No. 165 under contract to any publisher of a Worcester daily or Sunday newspaper ay Shopping News or Guide during the life of this Agreement, those sold better or different terms or concessions, all er in part, of the option of the office desiring them, shall be allowed immediately by the Union to the publisher.

It is also agreed that if any terms affecting wages, hours or working conditions, better than or different from those given in this agreement, or any concessions whatever are allowed by a publisher of a Worcester Daily or Sunday newspaper or Shopping Guide under contract to Worcester Typographical Union No. 165 during the life, of this Agreement, these sold better or different terms or concessione, all or in part, at the option of the Union, shall be allowed immediately by the Publisher to the Union.

#### Seetles 12

No employe covered by this contract shall be required to cross a picket line established because of an eutherland strike by any other subordinate union of the fromational Typographical Union.

#### Carles T

Seven hours shall constitute a day's work; five days shall constitute a week's

#### Section 2

## OLD CONTRACT

same shift equals the ratio prescribed in Section 1, Article III. At no time shall any apprentice have charge of a class of work

#### Section 6.

Foremen and Chairmen shall confer periodically concerning progress of apprentices. Work of apprentices must show if they are entitled to the increased wage scale provided in this contract. At the end of the first year of each apprentice's training period he shall be judged concerning his fitness to continue at the trade. Should apprentice not measure up to proper standards he may be released and a new apprentice appointed in his place, provided both the Chairman and the Foreman on the shift during which the apprentice is employed are in agreement concerning his unfitness.

#### Section 7.

It is agreed that in order to better qualify apprentices to fulfill journeymen qualifications they shall be advised to subscribe for and complete the I. T. U. Course of Lessons in Printing, beginning said course at the outset of their second year.

#### Section 8.

No new apprentice shall be permitted to replace those who enlist in or are called for service in the military or naval service of the United States (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the government of sold countries, and no new apprentices will be permitted to replace those drafted in the military or naval services of the United States or Canada except upon new applicant signing an agreement stating that he is folly aware that he is taking the place of an apprentice who has been called to service, and that he agrees to vacate the job upon return of original apprentice from active service with the armed forces.

Provided, however, that when it is necessary thereafter to hire a new apprentice to fill the quota of apprentices in this office, the displaced apprentice, upon having proved himself capable of learning the treds in his one-year probationary period, shall be given first choice of the new job and shall receive full credit for all time, worked in this office.

However, it is fully understood and agreed that second apprentice's right to work shall in no sense or at any time supersede or pre-date that of the returning serviceman-apprentice.

## UNION PROPOSAL

SAME AS OLD CONTRACT

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SAME AS OLD CONTRACT

ARTICLE IV

Section 1.

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#### Section &

In view of the agreement in Section 2 hereof that only journeymen and apprentices are to be employed, and since it is the desire and intent of the parties to assure, insofar as possible, the continued maintenence of a high degree of skill in the journeyman classification and a corresponding high degree of quality and quantity of production, it is mutually agreed that lourneymen are defined as: (1) Persons who, prior to the effective date hereof, worked as such in the composing rooms of employers signotory to this contract; (2) Persons who have completed approved apprentice training as provided in this contract, or have passed a qualifying examination under procedures heretofore recognized by the Union and the employers; (3) Persons who have possed an examination recognized by both parties to this contract and have qualified as journeymen in accordance therewith. Persons seeking to qualify as journeymen shall be given on examination under non-discriminatory standards and procedures established by the parties hereto (or the Joint Standing Committee) by impartial examiners qualified to judge journeyman competency selected by the parties hereto (or the Joint Standing Committee.) In the event agreement cannot be reached on the standards or procedures to be followed, or the examiners to conduct such examinations, the dispute shall be submitted to decision shall be final and binding on the parties. In hiring new journeymen employes, the foreman may not exclude as candidates for employment any individuals who have established competency as journeymen; but must recognize priority as follows: First, Regular situation holders. Second: Subject to established hiring practices, other journeymen who have worked in the composing

SAME AS OLD CONTRACT

#### tartles 10

A standing committee of two representatives appointed by the party of the first part, and a like committee of two representatives eppointed by the party of the second part, shall be maintained; and in case of a vacancy, absence or refusal of either of such representatives to act, another shall be appointed in his place. To this Joint Standing Committee shall be referred all discharge cases and all disputes which may arise as to the construction to be placed upon any clause of the Agreement, except as provided otherwise herein, or alleged violations thereof, which cannot be sattled otherwise. and such Joint Standing Committee shall meet within tentidays from the date on which any question of differences shall have been referred to it for decision by the executive officers of either party to this Agreement. Should the Joint Standing Committee be unable to agree, then it shall refer the matter to 'a board of arbitration, the representatives of each party to this Agree

SAME AS OLD CONTRACT

# ARTICLE II

All work by machine or hand shall be on a time basis as follows:

#### Section 1.

Seven and one-half hours shall constitute a day's work; five days shall constitute a week's work.

#### Section 1.

Seven and one-half hours shall constitute a night's work; five nights shall constitute a week's work.

#### Seedles T.

Seven hours shall constitute a wask's work.

#### -

Six and ann-half hours shall constitute a night's work; five nights shall constitute a week's work.

# ANTICLE .III

#### Continue 1

Approvition may be employed in the ratio of any is every five journaymen requisively employed on each regular skills until lear approvides have been employed, then the ratio shall be one to every ten fournaymen. Have the end to every ten fournaymen. Have the end to every ten fournamen. Have the end to every ten fournamen. Have the end to every ten fournaments to every ten fournaments to every ten fournaments to every ten fournaments to every ten fournaments. Have the every ten fournaments and every ten fournaments to every ten fournaments to every ten fournaments.

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AME AS OLD CONTRACT

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Apprentices shall be not less than 18 years of age at the time of beginning of their apprenticeship, shall be physically fit, and shall serve a term of six years. Th.

#### ender 4

Apprentices shall be given the same proter on as journeymen and shall be gove id by the same shop rules, working concurs and hours of labor.

# Section 5.

No apprentice shall be employed on overtime work in an office unless the number of journeymen working overtime on the

SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

# ARTICLE IV

#### Cartles 1

All time worked before or in excess of the regular hours established for the day's or night's work or at the end of a week's work must be paid for at the overtime rate, which shall be not less than price and one-half based on the hourly wage paid individual employe.

Overtime shall be worked when required. Employes designated to work overtime shall have the right to put on a replacement not already designated to work

#### . ....

All time worked before or in excess of the regular hours established for the day's or night's work or at the end of a week's work must be paid for at the overtime rate, which shall be not less than double price based on the hourly wage paid individual employe.

Employes covering jobs calling for a bonus or over-scale rate shall be paid at the rate of double time based on bonus or over-scale rate per hour.

Overtime shall be worked when re

# UNION PROPOSAL

quired. Employes designated to work overtime shall have the right to put on a re placement not already designated to work overtime.

SAME AS OLD CONTRACT

No employe covered by this agreement shall be required or permitted to hold a sit-

shall be required or permitted to hold a situation of more than five days or five nights or a combination of days and nights equivale it to five in one financial week. When any employe is required to work on regular off day or off night, or the sixth or seventh shift in any financial week, he shall be paid the overtime rate for such work.

# Section 3.

The hours of labor shall be continuous with the exception of an intermission of the for lunch, which shall not be counted as office time. No emwork more than four and one half hours without lunch time. If a work only portion of lunch period he shall be paid overtime for full period.

A second lunch period of not less than

be paid overtime for full period.

A second lunch period of not less than
15 minutes shall be given when an employe
is required to work overtime and beyond
period of four and one-half hours since first
lunch period. Any such second lunch period
shall be paid for as time worked.

# Section 4.

Employes shall report or have subs ready when time is called. When a regular man does not report or have a competent substitute ready within ten (10) minutes after the hour for beginning work, the foreman shall direct the chairman to put a competent substitute in his place.

Section 5.

oction \$.

for as time worked.

with the exception of an intermission of hirty (30) minutes for lunch, which shall not an counted as office time. No employe shall be kept at work more, than four hours without lunch time. If a man works any portion of lunch period he shall be paid overtime for full period.

A second lunch period of not less than 15 minutes shall be given when an employe

is required to work overtime and beyond neriod of four hours since first lunch period.

Any such second lunch period shall be paid

The hours of labor shall be continuous

SAME AS OLD CONTRACT

# OLD CONTRACT

(Monday paper) Each week with regard to day work shall be on a calendar week.

# Section 6.

The designated holidays shall be Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day and New Year's

Men regularly assigned to work on day shifts on designated holidays shall be paid at regular rates for these days when no work is performed.

Members of the night shift shall be paid time and one-half for work performed on issues dated as of designated holidays. Members working their sixth or seventh shift on designated holidays shall be paid at double straight time rates.

# Section 7.

for less than a full shift except when discharged for cause or is excused at his own request.

# Section 8.

Employes called back after having left the office shall be paid two dollars for such callback and overtime rates for all time worked.

# UNION PROPCIAL

shall not apply to extres employed because of paid vacations. Each week with respect to night work shall start with Sunday night's (Monday) paper. Each week with regard to day work shall be on a calendar week.

# Section 6.

All work performed by day shifts on Sundays or holidays or by night shifts prior to holidays shall be paid for at deuble price. The recognized holidays are: New Year's Day: Patriots' Day, Memorial Day, July 4th, Lobor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day, or days rejebrated as such.

This section shall be construed as applying to only one regular night shift on daily newspapers beginning on or extending into the morning of the holiday. All situation holders and apprentices scheduled to work on obove-named holidays shall seceive straight-time pay when not required to report.

When employe's regular slide day falls on one of above designated holidays, he shall be granted an additional slide day within the same financial week and receive regular pay for extra slide day.

## Section 7.

No employe shall be employed for less than a full shift except when dischringed for cause or is excused at his own request.

SAME AS OLD CONTRACT

The fereman has the right to employ help and shall observe strict priority rights of multitutes in so doing.

The foremen may discharge (1) for incompetency; (2) for neglect of duty; (3) for violation of office rules, which shall be kept conspicuously posted, and which shall in no way abridge the civil rights of employes or their rights under hereinbefore eccepted insernational Typographical Union laws. A discharges employe shall have the right to challenge the fairness of eny reason for discharge. Demand for written reason for discharge shall be made within seventy-two hours after eaguhar is discharged.

If is agreed to be considered competent that an operator an inotype machines shell be able to set a minimum of 4500 ems corrected straight news or its equivalent per heur; allowance will be made for sub-normal copy. Any operator whose production is criticized by the foreman shall have the right to inspect and measure the precise of the production complained of.

The foreman shell be the judge of an employe's competency as a worker and his general fitness to do the work of the office.

# Section 11.

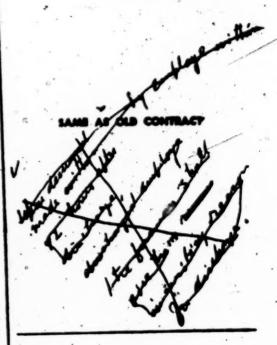
"When it becomes necessary to decrease the force, such decrease shall be accomplished by laying off first the person or persons last employed, either as regular emplayes or as extra employes, as the exigenclee of the matter may require. Should there be an increase in the force, the persons displaced through such cause shall be reinstated in reverse order in which they were laid off before other, help may be emplayed. Persons considered capable as substitutes by foreman shall be deemed competent to fill regular situations, and the substitute oldest in continuous service shall have the right in the filling of the first vacancy. This section shall apply to incoming as well as outgoing foremen.

#### Section 12.

The party of the first part egrees to furnish a clean, healthful, sufficiently ventilated, properly heated and lighted place for the performance of bill work of the composing room; and all machines or apparatus, operated in the composing room or in rooms adjacent thereto from which dust, gases or other impurities are produced or generated shall be equipped in such manner as to protect the health of employes.

It is agreed that the Union will co-operate to the end that employes keep toilers, locker rooms and composing rooms sanitary.

UNION PRUPOSAL



SAME AS OLD CONTRACT

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# GENERAL COUNSEL'S EXHIBIT 3

Worcester Typographical Union No. 165 Worcester, Massachusetts

October 31,1956

In counter proposal of Worcester Telegram Publishing Company to proposal of Worcester Typographical Union No. 165, which proposal seeks entailment of additional costs mounting to minimum of \$556,550.00 (over 50 percent) for Composing Room production, the Company stresses that the Union is forbidden to sign a written agreement without permission of the International Typographical Union as to phraseology of jurisdiction clause and governing potential of ITU General Laws.

Obviously these two unilateral ITU requirements join to become key to signed agreement regardless of any meeting of minds which might be reached on anything or all else in an agreement. This being fact, it is sensible that settlement be sought and attained on these key points before time is consumed in negotiation on other clauses of an agreement.

On matter of duration of agreement the Company is desirous of minimum of two years.

The Company continues to recognize the Union as bargaining representative of all employed covered by the agree-

On jurisdiction, with interpolation of words "but is not limited to," the Company continues to be willing to give the Union full jurisdiction over all Composing Room work and language would read:

"The jurisdiction of the Union is defined as including all Composing Room work in shops covered by this contract and includes, but is not limited to, classifications such as hand compositors, type-setting machine operators, make-up men, hank men, ad men, proofreaders, machinists for typesetting machines, operators, and machinists on all

As to governing scope of ITU General Laws, the Company counter proposes the following language:

"The General Laws of the International Typographical Union, in effect at the time of execution of this agreement, not in conflict with State or Federal Law, shall govern relations between the parties to extent that they are negotiated and become a part of the contract."

The matters of jurisdiction and observance of ITU General Laws having been agreed upon, the Company counter proposes for negotiation new language to be agreed upon to provide:

1. That composing room work shall be done by journeymen and apprentices and by learners on any new process the Company feels that it is forced to institute

2. That provision be made for strictly machinist appretice and, graduated from apprenticeship, he may be given situation without consideration of overall priority.

3. That provision be made to expand reasons for decharge and to provide for disciplinary action, at optig

of the Company, short of discharge.

4. Full discussion of all innovations in Union proposiof all currently governing provisions and of any adall amendments either party may suggest as negotitions proceed.

Worcester Telegram Publishing Co. In (signed) Richard C. Steele General Manager

# GENERAL COUNSEL'S EXHIBIT 4

Worcester, Mass. January 17, 1957

Worcester Typographical Union No. 165

As indicated in last negotiating session between the Company and your scale committee, the Company amends its counter-proposal on Jurisdiction clause to read as follows:

The jurisdiction of the Union is defined as including all Composing Room work in shops covered by this contract and includes, but is not limited to, classifications such as hand compositors, type-setting machine operators, make-up men, bank men, ad men, proof-readers, machinists for typesetting machines, operators, and machinists on all mechanical devices which cast or compose type or slugs.

"The Company continues to be willing to give the Union full jurisdiction over all Composing Room work.

"The Company pledges, for the duration of this contract, not to install Fotosetter, Photon, Linofilm, Monophoto, Coxhead liner, Filmotype, Typro or Hadego operation."

The Company's counter-proposal to all else stands as of its October 31, 1956 counter-proposal.

# GENERAL COUNSEL'S EXHIBIT 6

# NOTICE TO COMPOSING ROOM EMPLOYEES

The last contract between Worcester Telegram Publishing Company, Inc. and Worcester Typographical Union No. 165 having expired on December 31, 1954, and no renewal or extension thereof having been negotiated, the Company hereby informs the employees that as of this date it has made an increase in journeyman rate of pay, effective as of

January 1, 1957 to \$107.00 a week, \$21.40 a shift \$2.85\% an hour for day work; and not less than at the rate of \$111.00 a week, \$22.20 a shift, \$2.96 an hour for night work from January 1, 1957 to December 31, 1957 and to \$111.00 a week \$22.20 a shift, \$2.96 an hour for day work; and not less than at the rate of \$115.00 a week, \$23.00 a shift, \$3.06\% an hour for night work as of and after January 1, 1958.

The minimum scale for apprentices will be in proportion to the journeyman's scale for day and night work as follows:

|   | First Six<br>Months | Second Six<br>Months |
|---|---------------------|----------------------|
| First Year                              | 40%                 | 46%                  |
| Second Year                             | 52%                 | 58%                  |
| Third Year                              | 64%                 | 70%                  |
| Fourth Year                             | 76%                 | 82%                  |
| Fifth Year                              | 90%                 | 90%                  |
| Sixth Year                              | 90%                 | 90%                  |
| Third Year<br>Fourth Year<br>Fifth Year | 64%<br>76%<br>90%   | 70%<br>82%<br>90%    |

There will be no reduction in the hourly wage of those a any job getting more than called for by the scale.

Seven and one-half hours will constitute a day's work.

Seven and one-half hours will constitute a night's work five nights shall constitute a week's work.

Day work will be between 7 A. M. and 6 P. M. Night wos shall be between 6 P. M. and 7 A. M.

All time worked before or in excess of the regular housestablished for the day's or night's work or at the end of week's work will be paid for at the overtime rate which we not be less than price and one-half based on the hourly wag paid individual employe.

Overtime shall be worked when required. An employee designated to work overtime shall have the right to request the foreman to put on a replacement for him. Where a com-

petent replacement is available, foreman shall grant such a request.

Whenever overtime is involved, employees covering jobs calling for a bonus or over-scale rate will be paid at the rate of time and one-half based on their journeyman scale plus the bonus rate. Whenever a holiday is involved and there is also overtime, such overtime will be paid at time and one-half of the prevailing holiday rate.

In the event of the installation of any new machines, the tompany will be glad to discuss the matter with representatives of the employees.

\* The foreman, or in-his absence the acting foreman, will continue to be in sole charge of work in the Composing Room and all employees therein shall perform their work under his direction.

There will be no changes in the current office rules and none will be made without first discussing any proposed change with the representatives of the employees.

The Company is prepared to continue the utilization of the Joint Standing Committee for the adjustment of any grievances that may arise.

Designated holidays are Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day.

Men regularly assigned to work on day shifts on designated holidays will be paid at regular rates for these days when no work is performed.

Members of the night shift will be paid time and one-half for work performed on issues dated as of designated holidays. Members working their sixth or seventh shift on designated holidays will be paid at double straight time rates.

When any employee's regular slide day falls on one of above designated holidays, he will be granted an additional slide day within thirty working days thereof and receive

### Section 5.

The publisher shall be permitted to operate his composing room six or seven days per week and as many shifts as may be desired to meet requirements under conditions set forth in this contract. The particular days constituting a situation shall be designated by the foreman, and insofar as prac ticable, the five shifts constituting a situation shall be consecutive

Employes may claim new shifts, new starting times, new slide days and have choice of vacation schedule in accordance

with their priority standing.

In giving nights or days off, the foreman shall give preference to members oldest in priority standing. Notice shall be given the chairman and posted on the chapel bulletin board 48 hours prior to beginning of financial week.

When the office employs an extra five days in a calendar week for four consecutive weeks, an additional situation shall be added, It being understood that in the application of this provision the number of situations to be added must equal the average number of extras hired in the four consecutive calendar weeks. Each four week period will be considered separately and without relation to any other four week period. The average number shall be arrived at by dividing the total number of extras hired for five or more shifts in the four consecu-Hve calendar weeks by four.

It is further understood that this section shall not apply to extras employed because of paid vacations Each week with respect in night work shall start with Sunday nights

The publisher shall be permitted to op erate his composing room six or seven days per week and as many shifts as may be desired to meet requirements under conditions set forth in this contract. The particular days or nights constituting a situation shall be designated by the foreman; provided that the five shifts constituting a night, situation shall be consecutive, except for the situations in effect on the signature date of this agree ment, which shall continue until vacated

Employes may claim new, shifts, nevi starting times, new slide days and have choice of vacation schedule in accordance

with their priority standing.

In giving hights or days off, the foreman shall give preference to members oldest in priority standing: Vacated days may be formed by employes with superior priority. but once claimed, there shall be no further claims Notice shall be given the chairman and posted on the chapel bulletin board 48 hours prior to beginning of financial week

When the office emple s, an extra five days in a calendar week for four consecutive weeks, an additional situation shall be added, it being unders ood that in the application of this provision the number of situations to be added must equal the overage number of extras hired in the four consecutive ralendar weeks. Each four week period will be considered separately and without relation to any other four week period The average number shall be arrived at by dividing the total number of extras hired. for five or more shifts in the four consecu tive calendar weeks by four It is further understand that this section

## Section 9.

The Interchanging, exchanging, borrowing, lending or buying of matter, either in the form of type or matrices, between newspapers, between job offices, or between newspapers and job offices, or vice versa, not owned by the same Individual, firm or corporation and published in the same establishment, is permissible provided that such type matter or matrices are reset, proofread and corrected within one week after date of publication of same, or as soon thereafter as help is available. It is understood that this rule does not apply to advertising of general advertisers who sell their product through an agent, or their own branch stores in this and other cities, nor to printed supplements, magazines, syndicate or other feature matter in matrices, cuts or plates in page size and smaller. This section shall not be construed as prohibiting the loaning, borrowing, exchanging, purchase or sale of matter or matrices or electrotypes occasioned by extraordinary emergencies such as fire, flood, explosion, or other unforseen disaster, including the "pi" of a form or forms when it will be permitted without penalty.

The office shall own all "pickups," both machine and handset. Matter ence paid for shall always remain the property of the office, either. In type or mot form, to use in any or all editions or as many times as desired, with such changes as the office may wish to make. "Kill" marks shall not deprive the office of the right to "pickup."

SAME AS OLD CONTRACT

Section 13.

Vacations with pay will be given each year as a rest for services performed and relaxation for services to follow, on the following basis:

(a) Journeymen who have held regular situations for at least 44 weeks prior to May I each year preceding the vacation period shall be given two weeks' (ten days) vacation with pay.

(b) Other journeymen who have worked at least 110 shifts prior to May 1 shall be given one week's (five days) vacation with pay. Time worked as substitutes for regular

Section 13.

Employee who have held situations during the hirelve months ending May 1, 1954, shall be entitled to three weeks' vacation

with pay. Substitutes who have worked as extras for the office shall be entitled to one day's vacation for each 17 days worked. Anyone leaving his place of employment

voluntarily or otherwise shall be entitled to and receive his vacation credit pay on a pro rate basis.

pro rata basis.

If a holiday occurs during an employe's vacation, he shall be given an extra day's vacation.

(d) Rote of pay during the vecation parties shall be at the day or night ecole, depending upon which shift the man is viori-

(a) The time of the year that each employe shall take his vacation shall be determined and arranged by the terminal in such a way as to cause no interruption or interference with the work of gatting out the paper and with due consideration to priority.

(f) A third week of vacation shell be given covered employee who shell have hed full time employment with the party of the first part for fifteen (15) years prior to May 1, 1953, and/ac May 1 of any succeeding year, this third week to be assigned at the disration of the foremen with due assald-dration to priority. Any such third week which shall not have been assigned prior to any Devember 31st shall be assorted afforced.

(g) In the event, the foremen shall find convenience to either party to the contract better served by offering any part of vecation (due after any May 1st) prior to any May 1st he may so offer them and he shall give due consideration to any covered employe's request for any part of vacation prior to May 1st.

# Section 14.

The party of the first part agrees to continue the hospitalization, life insurance and sick-leave plan now in effect, without eset to employe. The party of the first part further agrees to grant additional sick leave in the ascent of hoti-jeey per shift until benefits from the plan are payable, when such additional sick leave payments shell be in an amount necessary to bring the total psychile under this section to heli-pay per weigh of five shifts. To be eligible, an employe shall have been absent from work five densecutive shifts.

# Seatles 15.

In event of concollidation or evaporation, all employes affected shall receive severance pay of not less than two weeks' pay at the regular rate for each year's priority up to ten weeks.

#### loation - 16.

Employee discharged to reduce the force shall receive four weeks' severance pay,

#### Seatles 17.

The party of the first part agrees to establish a penelon plan covering compasing room employee with these features: (1) Retirement to be at the time chasen by employee after atteining retirement age without direct or indirect compulsion from the company (2) Amount of weekly penelon to be fifty, per cost of employe's highest rate of pay during period of employment.

. ARTICLE V

Soution 1.

Open repeal or amendment of the Toh-Hartley Act, any clauses contained in this Agreement because of the restrictions of the act or court decree rendered thereunder shall automatically become null and void unless kept alive by an applicable state law.

Section 2.

If any provision or practice prevailing under the previous contract which has been excluded from this contract solely because of legal restrictions is determined by legislative enactment or by decision of the Court to be legal, then such provisions shall upon written request of the Union be immediately affective and enforceable hereunder.

Section 3.

In the event that any of the previsions of this contract are, or become, legelly involid or unenforceable by virtue of any Stete or Federal law, the remaining provisions shall be unoffected by such invalidity or unenforceability and shall continue to full force and effect throughout the life of the contract. AND BE IT FURTHER PROVIDED: In the event of invalidity as cited hereinbefore, both parties agree to renegotiate affected subject matter with end in view of compliance with law.

Santian A

It is agreed that the only parties to this Agreement are the Worcester Telegram Publishing Company and Worcester Typographical Union No. 165. It is further agreed that the approval of this Agreement by the international Typographical Union as complying with its law does not make it a party-hereto.

Employee shall be allowed sufficient time off on Election Day to allow them to go to their pulling place to east their value, part.

les. 20.

Employee shall be allowed three days' leave at their regular scale of progos, in the event of a death in their immediate family.

SAME AS OLD CONTRACT

SAME AS OLD CONTRACT

SAMÉ AS OLD CONTRACT

SAME AS OLD CONTRACT

straight-time pay for extra slide day. Notification of such additional day shall be given by the foreman in the preceding financial week.

In event any employee is drawn for duty as a juror, the Company will pay said employee wages lost by reason of service as juror. Amount paid for jury service by the County or Federal governments will be deducted from regular pay and balance shall be paid by the Company.

Employes will be allowed three days' leave at their regular scale of wages in the event of a death in their immediate families, excepting that any of the three days falling on employes' days off will not be compensated for.

RICHARD C. STEELE, General Manager.

# GENERAL COUNSEL'S EXHIBIT 7

# WORCESTER TYPOGRAPHICAL UNION NO. 165

Instituted 1885
Meets First Sunday in the Month
Feb. 14, 1957

Mr. Richard C. Steele, Gen. Mgr. Worcester Telegram Publishing Co. 22 Franklin Street

Worcester

Dear Mr. Steele,

At a special meeting of Worcester Typographical Union No. 165 held Wednesday, Feb. 13, the scale committee gaves detailed report to the membership. After lengthy discussion, it was voted to send the following notice to Worcester Telegram Publishing Co.:

"The Union will not object to acceptance of wage increase or other improved working conditions by its members, with the understanding that such acceptance in no way binds the Union for any length of time to any agreement or contract of any kind; with the further understanding that the Union is willing at any time to continue negotiations for a complete contract covering wages and all other erms of employment mutually satisfactory to the employment the Union."

Sincerely yours, (signed) James J. Quinn President

# GENERAL COUNSEL'S EXHIBIT 8

# COPY WORCESTER TYPOGRAPHICAL UNION NO. 165

Worcester, Mass. September 6, 1957

Howard M. Booth, Publisher
Worcester Telegram Publishing Company
20 Franklin Street
Worcester, Massachusetts
Dear Mr. Booth:

Worcester Typographical Union hereby requests a meeting between the representatives of the Worcester Telegram Publishing Company and the scale committee of the union for the purpose of continuing negotiations toward a complete agreement.

The Union strongly desires to meet as soon as possible to discuss what it believes to be serious alterations in conditions in the Composing Room and earnestly hopes to improve relations through a complete contract.

Sincerely, (signed) Joseph R. Mahoney, President

# GENERAL COUNSEL'S EXHIBIT 9

[Letterhead, Worcester Typographical Union No. 165] September 25, 1957

Howard M. Booth, Publisher
Worcester Telegram Publishing Company
20 Franklin Street
Worcester, Massachusetts

Dear Mr. Booth:

In letter of September 6, Worcester Typographical Union requested a meeting between its scale committee and representatives of the Worcester Telegram Publishing Company for the purpose of renewing negotiations toward a complete agreement.

To date, we have had no acknowledgement of receipt of that letter. However, in a recent conversation with the Mechanical Superintendent an allusion was made to the receipt of our request for renewal of contract talks. We are, therefore, convinced that our letter has come to your attention.

Since approximately three weeks have elapsed with no reply forthcoming, we must assume that your silence indicates refusal by management to bargain with the Union representatives. Should this be the case, we shall be forced to report these facts to the Union membership for whatever action it deems necessary and to the conciliation services of the State and Federal government.

We sincerely hope this assumption to be wrong and that time of meeting will be set by your representatives as promptly as possible.

Sincerely,

s/Joseph R. Mahoney
President, Worcester Typographical Union
Chairman, Scale Committee

# GENERAL COUNSEL'S EXHIBIT 10

September 30, 1957

Joseph R. Mahoney, President Worcester Typographical Union No. 165

19 Eureka Terrace

Worcester, Massachusetts

Dear Mr. Mahoney:

Answering your letter of September 6, 1957 proposing that Worcester Telegram Publishing Company, Inc. meet with scale committee of the union for the purpose of continuing negotiations toward a complete agreement, I write to inform you that the Company doesn't consider this to be a reasonable time for negotiating.

Sincerely, Howard M. Booth Publisher

HMB/s

cc for Mr. Steele

# GENERAL COUNSEL'S EXHIBIT 11

[Letterhead, Worcester Typographical Union No. 165] November 5, 1957

Howard M. Booth, publisher.

Worcester Telegram Publishing Company

22 Franklin Street

Worcester, Massachusetts

Dear Mr. Booth:

Worcester Typographical Union, again and for the third time, respectfully requests a meeting between its representatives and the representatives of the Worcester Telegram Publishing Company, for the purpose of continuing negotiations towards a complete agreement. Permit us to remind you that in posted conditions of employment, the Worcester Telegram Publishing Company has pledged itself to continue to negotiate, but to date has refused to do so.

Should you continue to evade or refuse such meetings, the Union will be forced to notify the conciliation services and seek the advice of its International Union's legal staff to determine whether this action might be called an unfair labor practice.

The membership is not satisfied that your reply to our

second request is a logical reason not to meet.

The Union feels conditions make it imperative that both parties meet without delay, so that we can make an earnest effort to come to a complete agreement.

Sincerely, s/Joseph R. Mahoney Joseph R. Mahoney President

M:m

# GENERAL COUNSEL'S EXHIBIT 12

[Letterhead, Worcester Typographical Union No. 165] January 16, 1958

Howard M. Booth, Publisher Worcester Telegram Publishing Co., Inc. 20 Franklin Street Worcester, Massachusetts

Dear Mr. Booth:

This is to advise you that the clause in our proposed agreement calling for the employment of a member of this union as a foreman was not, and is not, an issue in the present lockout. We are now willing, as we have been at all

times, to enter into an agreement without this clause if other issues are satisfactorily adjusted.

Respectfully,
s/Joseph R. Mahoney
Joseph R. Mahoney, president
s/Albert N. DeLorme
Albert N. DeLorme, secretary-treasurer

# GENERAL COUNSEL'S EXHIBIT 13 ...

[Letterhead, International Typographical Union]
January 24, 1958

Worcester Telegram Publishing Company, Inc.

20 Franklin Street

Worcester (8) Massachusetts

Registered — Return Receipt Requested

Gentlemen:

We hereby withdraw our demand for a contract clause calling for the employment of a member of this union as foreman.

> Sincerely, s/Woodruff Randolph 'President

1-wt

# GENERAL COUNSEL'S EXHIBIT 14

[Letterhead, Worcester Typographical Union No. 165] January 24, 1958

Mr. Howard M. Booth, publisher Worcester Telegram Publishing Company, Inc. 20 Franklin Street Worcester, Massachusetts

# Dear Mr. Booth :.

We hereby withdraw any demand we may have made for a contract clause calling for the employment of a member of this union as a foreman.

Respectfully yours,
s/Joseph R. Mahoney
Joseph R. Mahoney, president
s/Albert N. DeLorme
Albert N. DeLorme, secretary-treasurer

## Seetler 17.

The party of the first part agrees to establish a pension plan covering composing room-employee with these features: (1) Retirement to be at the time cheen by employee after attaining retirement age without direct or indirect compulsion from the company (2) Amount of weekly, pension to be fifty per sent of employe's highest rate of pay during period of employment.

#### Seedles 18.

In event any amploye covered by this agreement'ils drawn for duty as a jurer, parts of the first part agrees to pay said employe wages lost by reason of service as juror. Amount paid for jury service by the county or federal governments shall be de-

IN WITNESS WHEREOF, we have hereunto set our hands and seals this third day of April, 1953.

WORCESTER TELEGRAM PUBLISHING CO. (signed) Richard C. Steele, Business Manager WORCESTER TYPOGRAPHICAL UNION NO. 145

(signed) Joseph R. Mahoney, President Albert N. DeLorme, Secretary Leon E. Couture James J. Quinn

This Agreement is approved as being in compliance with the laws of the international Typographical Union, as limited by the Taft-Hartley Law, and the undersigned, on behalf of the Executive Council of the International Typographical Union, hereby pledges, as a matter of union policy only, its full outhority under its laws to the fulfillment thereof, without becoming party thereto and without assuming any Jiobility sherounder.

WOODRUFF RANDOLPH, President \*
International Typographical Union.

# BOOK of LAWS

of the

INTERNATIONAL TYPOGRAPHICAL UNION



EFFECTIVE JANUARY FIRST
1957

# PROTECT YOUR MEMBERSHIP

# Constitution

# BYLAWS, GENERAL LAWS AND CONVENTION LAWS

of the

INTERNATIONAL
TYPOGRAPHICAL UNION AND
THE UNION PRINTERS HOME

Together with

The Joint Agreement With the International Printing Trades Unions Comprising the International Allied Printing Trades Association



Compiled and Published by

WOODRUFF RANDOLPH, President

and

Don Hund, Secretary-Treasurer

of the

INTERNATIONAL TYPOGRAPHICAL UNION

INDIANAPOLIS, INDIANA

1957

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# CONSTITUTION

1957

#### ARTICLE I-JURISDICTION

Section 1. This body shall be known as the International TYPOGRAPHICAL UNION OF NORTH AMERICA. Its jurisdiction shall include all branches of the printing and kindred trades. other than those over which jurisdiction has been conceded by agreement. In it alone is vested power to establish subordinate unions of printers (and all other skilled employes not otherwise herein excepted) mailers and kindred trades, and its mandates must be obeyed at all times and under all circumstances. To the International Typographical Union of North America is reserved the right to fix, regulate and determine all matters pertaining to fellowship in its branches of the printing and kindred trades; while to subordinate unions is conceded the right to make all necessary laws for local government which do not conflict with the laws of the International Union. The International Typographical Union reserves the right to re-establish jurisdiction over any branch of the industry and establish jurisdiction over all new processes of work in the industry when the vital interests of the union are affected. The Executive Council is hereby authorized to take such action when deemed necessary to the welfare of the International Typographical Union. The International Typographical Union will not be a part of, nor be affiliated with, any other organization which by its laws, or otherwise provides or claims control over the internal affairs of the International Typographical Union, its relations with other unions or its jurisdiction over work processes existing or potential.

SEC. 2. A charter may be issued to eight or more eligible applicants in any city or town. Only one English-speaking subordinate union in any distinctive craft shall be chartered in the same place; but a charter may be granted to printers or mailers of, and working in, a foreign tongue, and such printers or mailers may join an English speaking union in any place where a union in their mother tongue does not exist.

SEC. 3. The distinctive names of the several subordinate branches shall be: Of the printers, typographical union; of the mailers, mailers' union; and of other allied crafts or trades, if such there be, the distinctive name of each branch.

SEC. 4. All charters granted by the International Typographical Union shall be in form as follows:

# CHARTER INTERNATIONAL TYPOGRAPHICAL

| · UNION   |
|---|
| To All to Whom These Presents Shall Come:   |
| Know YB, That the International Typographical Union of<br>North America established for the purpose of effecting<br>thorough organization of the craft, and composed of sub-<br>ordinate unions and members in different sections of the<br>country, doth upon proper application and under condi-  |
| tions herein provided, hereby grant unto  |
| and to their successors this charter, for the establishment   |
| and future maintenance of a subordinate union at  |
| to be known a   |
| Union No  |
| So long as the said union adheres to these conditions, the charter to remain in full force; but upon infraction thereo the International Typographical Union may revoke the charter, thereby annulling all privileges secured hereinde in Withers & Whereo, We have hereunto set our hands an affixed the Seal of the International Typographical Union |
| thisday of  |
| Secretary and Treasure  |
| Preside   |

SECTION 1. The International Typographical Union shall exercise complete and unrestricted authority to define its jurisdiction; enact; enforce and amend as provided in its constitution and bylaws all laws for the government of the International Union, its subordinate unions and its officers and members throughout its entire jurisdiction.

SEC. 2. The laws of the International Typographical Union

shall be comprised in:

(a) The constitution shall contain an outline of the fundamental principles, policies and purposes of the organization; declare the jurisdiction of the international Union and sub-ordinate unions; define the duties and salaries of officers; provide for conventions and fix the basis of representation; establish an obligation for members; provide for appeals and penalties; authorize traveling and withdrawal cards; provide for an official publication and the Typographical Union label; regulate all matters pertaining to dues and assessments or the raising of revenue.

(b) The bylaws shall contain all laws relating to membership in the International and subordinate unions; qualifications and election of officers and their specific duties; for the government of subordinate unions and members; charges and trials and appeals; qualifications and election of delegates; auditing of accounts and reports relating to the institution. maintenance and administration of a system of benefits; providing for the care of diseased, aged and infirm members and all laws for internal government of the International Union.

(c) The general laws shall contain only any and all laws relating to contracts and scales of prices; conditions of employment and the relation of subordinate unions and indi-

vidual members to the employer.

(d) The convention laws shall contain laws, rules of order, committees, etc., for government of sessions of the International Union and its deliberations.

SEC. 3. The constitution shall only be amended by referendum vote, in the manner hereinafter set forth.

SEC. 4. Bylaws and general laws may be enacted by the convention of the International Typographical Union, but shall in nowise conflict with the constitution, or any part thereof.

#### ARTICLE III-CONVENTIONS

SECTION 1. The convention of the International Typographical Union shall be held annually on the Saturday preceding the third Monday in August at such place as the delegates in convention assembled may designate. The selection of convention cities may be made two years in advance. All the arrangements for the same to be made by and at the expense of the International Typographical Union: Provided, On the years when the convention is held at Colorado Springs the convention shall convene on Saturday preceding the second Monday in September.

#### ARTICLE IV-REPRESENTATION

SECTION 1/2 Subordinate unions are entitled to representation in conventions of the International Typographical Union
according to the following apportionment: Unions with one
hundred members or less, one delegate; more than one hundred and less than five hundred members, two delegates;
more than five hundred members, two delegates;
more than five hundred members, four delegates; and
for each additional two thousand members, one additional
delegate. Two or more subordinate unions, having a membership of less than one hundred members each, may combine
and elect one delegate, the certificate of a delegate so chosen
to be signed by the president and secretary of each of the
unions he represents.

SEC. 2. Each delegate shall be entitled to one vote, and no

proxies shall be allowed.

#### ARTICLE V-OFFICERS AND ELECTIONS

Section 1. The elective officers of the international Typo-agraphical Union shall be a President, a First Vice-President, a Second Vice-President, a. Third Vice-President who shall be a mailer, a Secretary-Treasurer, a Board of Auditors consisting of three members, such number of delegates to the American Federation of Labor and Congress of Industrial Organizations as this body is entitled to by law, such number of delegates to the Canadian Labor Congress as this body, is entitled to by law (who, must be Canadian members), such number of nominees as may be necessary to fill vacancies in the membership of the Union Printers Home corporation, and in Agent to the Union Printers Home.

SEC. 2. The elective officers of the International Typographical Union shall be nominated by the local unions and elected by the membership in a manner which shall be spe-

cifically set forth in the bylaws.

SEC. 3. The term of office of all elective officers, except auditors, shall be for two years, or unit their successors are elected and qualified. One auditor shall be elected at each biennial election for a term of six years. No person while serving as auditor shall accept any other office or employment in this union. The term of office of the elective officers, other than auditors, chosen at the May election shall be from July 15 for a full term of two years. Members of the Board of Auditors' terms of soffice shall begin November 3.

# ARTICLE VI-DUTIES OF OFFICERS

SECTION 1. The President shall attend and preside at all conventions of the International Typographical Union during his term of office; he shall at all times exercise a general supervision over all officers of the International Union; he shall make his official residence in the city of Indianapolis, and shall give his entire time to the duties of his office; he shall have authority, should he become satisfied that any officer is derelict in the performance of any duty, or has been

7

guilty of any dishonest act, to suspend such officer from his official position. He shall be ex officio the nominee of the International Typographical Union for the office of President of the Union Printers Home corporation, and one of the delegates to the American Federation of Labor. He shall perform such other duties as appertain to his office or as may be required by law.

#### THE VICE-PRESIDENTS

- SEC. 2. The First Vice-President shall assist the President in the discharge of his duties, and shall perform the duties of President in his absence, death, incapacity or resignation from office. He shall attend all sessions of the International Typographical Union. He shall make his official residence in Indianapolis, and shall devote his entire time to the business of this union.
- SEC. 3. The Second Vice-President and the Third Vice-President shall assist the President in the discharge of his duties. They shall attend all sessions of the International Typographical Union. They shall make official residence in Indianapolis, and shall devote their entire time to the business of the union.

## THE SECRETARY-TREASURER

SEC. 4. The Secretary-Treasurer shall attend all conventions of the International Union, and shall devote his entire time to the business of this union; he shall, in connection with the President, establish an office in the city of Indianapolis, which shall be the official headquarters of the International Union, and where all books, records, e.c., shall be kept; he shall be the custodian of the funds of the International Union. and shall, under the direction of the Executive Council, deposit all funds of the International Union in some responsible bank or banks in said city; he shall give bond with a solvent guarantee company as surety payable to the President as trustee for the International Typographical Union and its members in the sum of \$500,000 previous to assuming office. which bond shall be paid for by this union and shall be approved by the Executive Council; he shall also be secretary of the Executive Council, and perform such other duties as may be required by law. He shall be ex officio to the nominee of the International Typographical Union for the office of Secretary-Treasurer of the Union Printers Home corporation. Any bond executed by a guarantee company to the President as aforesaid shall insure to the successors of such President as trustee for the International Typographical Union and its members and for any breach of such bond the President as trustee for the International Typographical Union and its members is hereby authorized to bring suit in his name as such President for the benefit of the International Typographical Union and its members.

#### THE EXECUTIVE COUNCIL

Sec. 5. There shall be an Executive Council, consisting of the President, the First Vice-President, the Second Vige-President, the Third Vice-President and the Secretary-Treasurer, which body shall have general supervision of the business of the International Union and of subordinate unions.

THE BOARD OF AUDITORS

SEC. 6. The Board of Auditors shall convene at International headquarters on the second Monday of July and January each year, and its duties shall be to audit the baoks and accounts of the Secretary-Treasurer of the international Typographical Union and the officers of the Union Printers Home corporation, closely examining all items of receipt and expenditure. The auditors shall have power to employ at the expense of the union any necessary expert assistance and shall be required to disallow all expenditures not duly authorized. The report of the auditors, showing the condition of the books and accounts, attested by a notary public, shall be published in The Typographical Journal next following completion of the audit. If such audit should show any important error, or any defalcation, or misappropriation of funds, the President with the consent of the Executive Council, shall immediately suspend the officer or officers responsible therefor, and proceed at once legally to secure the union or the Home corporation from loss. Compensation for the auditors shall be as fixed by sections 2 and 3, article viii, constitution.

THE AGENT

SEC. 7. It shall be the duty of the Agent, in the event of the Union Printers Home corporation neglecting or refusing to comply with the provisions of the deed under which the land on which the Home is situated was transferred, or disobeying any off the orders of the International Typographical Union: to enter upon and take full possession of the property as the custodian of the International Typographical Union: Provided, That it shall be the duty of the agent to attend one meeting of the Board of Trustees during his tenure of office.

#### BEPRESENTATIVES

SEC. 8. The President shall have power to appoint such number of representatives as he deems to be necessary to transact the business of the International Typographical Union. Before commissions are issued to representatives appointed by the President their appointment shall receive approval of a majority of the Executive Council: Provided, The President shall have sole authority to make temporary appointments in cases of emergencies where the representative is required to act as proxy for the President. Representatives appointed by the President, with the approval of the Executive Council, shall hold office for a period of two years, or until the expiration of the current term of office of the President who makes the appointment: Provided, That the President, with the approval of the Executive Council, may remove any representative at any time such action is deemed necessary. Representatives shall perform such duties as are

assigned to them by the President, under the direction and control of the President. For such time as they are required to devote to the business of the International Union the compensation and traveling expenses of representatives shall be fixed by the Executive Council, in accordance with sections 2 and 3, article viii, constitution. Representatives who are regularly assigned under the provisions of this section shall be allowed a vacation of three weeks with pay in each year.

#### ARTICLE VII-VACANCIES IN OFFICE

SECTION 1. If for any reason there occurs a vacancy in the Executive Council, official notification of the vacancy and the sent to secretaries of all subordinate upithin seventy-two hours after such yacancy occurs, a shall be held the first Wednesday aft the expiration of ninety days from date of vacancy: Prov. When there remains less than nine months of the time of office, the vacancy shall not be filled. In a special election to fill a vacancy the name of any member otherwise eligible receiving the endorsement of twenty subordinate unions shall be printed upon the ballot, which shall be prepared thirty days prior to the date of such special election. Only endorsements received previous to the time herein fixed for printing ballots shall be accepted to establish eligibility.. In the event of a vacancy in the office of Secretary-Treasurer the First Vice-President shall perform the duties of the office until the vacancy is filled as herein provided.

Sec. 2. When for any reason a vacancy occurs in any elective office, other than the Executive Council, such vacancy shall immediately be filled by the Executive Council. Where the term of office in which the vacancy occurs extends beyond the next regular International election such vacancy shall be filled for the unexpired term at such regular election. A member chosen by the Executive Council to fill a vacancy shall hold office until a successor is elected, as above provided, and qualifies. In filling a vacancy in a general election the qualifications of candidates shall be the same as are provided for candidates for a full term.

# ARTICLE VIII-SALARIES AND EXPENSES

SECTION 1. The salary of the President, Vice-Presidents. and Secretary-Treasurer, in full for services rendered by each of said officers during their term of office shall be computed as follows:

For the President, for services rendered as President of the International Typographical Union and as President of the Board of Trustees of the Union Printers Home, three (3) times the average full time weekly wages of the membership times the average rull time weekly wages of the membership per week. First Vice-President, Second Vice-President, Third Vice-President, two and one-half (2½) times the average full time weekly wages of the membership per week. Secre-tary-Treasurer, for services rendered as Secretary-Treasurer of the International Typographical Union and as Secretary-Treasurer of the Board of Trustees of the Union Printers Home, three (3) times the average full time weekly wages

of the membership per week. The average full time weekly wage rate shall be taken from the Secretary-Treasurer's annual report and shall be put into effect every July 15.

SEC. 2. The compensation of any officer other than President, First Vice-President, Second Vice-President, Third Vice-President, or Secretary-Treasurer, or any member performing service under direction of the President or Executive

Council shall be set by the Executive Council.

SEC. 3. When any officer or member is required to perform bervice away from his home, he shall be allowed in addition to the amounts set forth above, first-class railroad fare or transportation fare by plane or payment of ten cents (10c) per mile-for use of automobile when this mode of transportation is more adaptable to the efficient performance of official duties, by the shoffest route to and from his destination, and per diem expenses in an amount to be set by the Executive Council: Provided, hat an itemized bill shall in all cases be rendered.

SEC. 4. The President, Pirst Vice-President, Second Vice-President, Third Vice-President and Secretary-Treasurer shall, on their first election, be entitled to traveling expenses from their home to the headquarters of the International Union, and also on return at close of official term. They shall also be allowed a vacation of thirty days in each year.

### ARTICLE IX-REVENUE AND FUNDS

(An amendment which temporarily reduces the rate of the pension and mortuary assessment became effective July 31, 1944. Words in the previous law temporarily stricken out by the amendment are printed in brackets. See Section 3 for time of reversion to previous law.)

Section 1. The revenue of the International Typographical Union shall be derived as follows: A per capita tax of \$1.00 per month which shall include subscription for The Typographical Journal, to be paid by every member of the International Typographical Union except those members domiciled at the Union Printers Home. The per capita tax, together with assessments as herein provided, shall be collected and transmitted to the Secretary-Treasurer of the International Typographical Upion.

An additional assessment for the old age pension and mor-

tuary funds according to the following classifications:

(a) Active members (including members working at the trade and seeking work at the trade)—Two [and one-half]

per cent upon total earnings.

(b) Active members not working at the printing trade (members whose cards are deposited with a subordinate union who follow other pursuits, and members not seeking work at the printing trade)—Two [and one-half] per cent upon the maximum scale (for day work) of the pursuits with which member is affiliated.

(c) Proprietor members whose cards are deposited with a local union—Two [and dne-half] per cent upon the maximum scale (for day work) of the union with which member

is alidiated.

- (d) Members employed by the union (local or International) - I wo [and 'one-half] per cent upon total earnings.
- (e) Members in unorganized towns-Members holding traveling cards but not working at the printing trade, \$5.00 [\$6.25] per month.

(f) Members in unorganized towns-Members holding traveling cards who work at the printing trade as journeymen or foremen-Two [and one-half] per cent upon total earnings.

(g) Proprietor members in unorganized towns-Members holding traveling cards and operating offices of their own-

\$5.00 [\$6.25] per month.

(h) Sick and disabled members-Members incapacitated because of sickness or any disability, and who have no earnings during the month, shall be exempt from the pension and mortuary assessment for each full month of such sickness or disability, but for not longer than three months; thereafter two [and one-half] per cent upon the maximum scale (for day work) of the subordinate union, but not more than \$1.75 per month during the period of disability. (See section 8, article vii, bylaws.)

(i) Pensioners-Members who draw the old age pension, 60 cents per month: Provided, That if a pensioner earns more than \$75 in any one month he must pay two [and one-half] per cent on earnings as the pension and mortuary assessment.

(j) Members drafted in the armed forces of the United States or Canada sha!l be exempt from the payment of International Typographical Union, assessments, beginning with the month of draft and ending with the month of release from active duty as determined by military records. Members who enlist for service in the armed forces of the United States or Canada in time of war or national emergency decreed by the Congress of the United States or Parliament of Canada, or who enlist for service in the armed forces of any country that may be allied with the United States or Canada in a war for a common cause or during the time when such armed forces are engaged in active combat with the military forces of another nation which presents a threat to the security of the United States or Canada shall be exempt from the payment of International Typographical Union assessments, beginning with the month of enlistment and ending with the month of dis-charge as determined by military records. Members who enlist in the armed forces of the United States or Canada during periods of peace, and members in the armed forces who re-enlist when the United States and Canada are not engaged in active combat with the military forces of another nation shall not be entitled to exemption of assessed payments as provided above. The purpose of the law is to protect those members who fulfill their patriotic duty, while conferring not-at-trade classification on those who choose any branch of the armed services as a profession.

Members in military or naval service who are exempt assessments are required to pay I.T.U. per capita tax and such local dues as the laws of the local union require:

SEC. 2. The balance in the mortuary fund shall be maintained at \$1,000,000.00. The pension and mortuary assessment shall be apportioned after receipt at headquarters as follows: to the mortuary fund an amount equal to mortuary benefits paid during the month, the remainder to the old age pension fund.

Sec. 3. It is further ordered the rates above provided shall remain in effect until such time as the reserve in the pension fund shall have reached the sum of \$2,000,000, when the rate of assessment shall revert to two and one-half per cent upon

earnings as in effect prior to this amendment.

SEC. 4. The per capità tax of the International Union shall be apportioned as follows: Fifty cents to the Union Printers Home Fund; the balance to the general fund, together with such additional revenue as shall be derived from the sale of charters and supplies to subordinate unions at prices fixed by

law.

SEC. 5. International dues for each month shall be collected by subordinate unions and shall be transmitted to the
Secretary-Treasurer of the International Typographical Union
before the twentieth of the succeeding month. Unions failing
to conform to these provisions shall be considered delinquent
and-debarred from benefits: Provided, That unions located so
far from headquarters as to make k impossible for their dues
to reach there within the prescribed time shall not be considered delinquent if their remittances bear postmark date
prior to the fifteenth of the succeeding month.

SEC. 6. No member residing within the jurisdiction of a subordinate union shall be classified as an unattached member or permitted to pay dues and assessments as such to the

International Secretary-Treasurer.

SEC. 7. The general fund shall be used to defray all expenses of the of the international Typographical Union except disbursements for the pension fund, the mortuary fund and the Home fund.

SEC. 8. On the death of each member in good standing, a steath benefit shall be paid to the designated beneficiary in all ounts as follows, except as otherwise provided by International Paw:

For a continuous membership of one year or less, \$50.

Fol a continuous membership of more than one year and less than two years, \$125.

For continuous membership of two years and less than three years, \$175.

For a continuous membership of three years and fine than four years, \$250.

For a continuous membership of four years and less than five years, \$325.

For a continuous membership of five years and less than ten years, \$400.

For a continuous membership of ten years and less than fifteen years, \$475.

For a continuous membership of fifteen years or over, \$500.

Any member who has been suspended from membership and subsequently-reinstated, in accordance with the laws of the international Typographical Union, shall not be entitled to any benefit if dwath occurs within three months after such reinstatement.

Sec. 9. The mortuary benefit fund shall be used for the purpose of disbursing mortuary benefits.

Sec. 10. All moneys to the credit of the Union Printers Home fund shall be transferred to the Secretary-Treasurer of the Union Printers Home corporation.

Sec. 11. Das old age pension fund shall be used for the purpose of maintaining and disbursing pensions to aged and superannussed members.

Sec. 12. The Executive Council shall have the power and authority to transfer monies and ot securities of this union totaling not more than one million dollars (\$1,000,000) from one fund to another whenever deemed necessary to maintain the integrity of this organization. Provided, None of the monies and/or securities in excess of the foregoing limitation of one million dollars (\$1,000,000) credited to the Pension and or Mortuary Fund shall ever be transferred to other funds of the international Typographical Union or to any other organization unless such transfer (specifically designated by amount and as to the purpose for which such transferred funds are to be used) is authorized by a referendant of the membership of the International Typographical Union.

Sec. 13. No convention or meeting, nor any official or member of the International Typographical Union of North America, shall have power to appropriate or use any moneys or securities in the treasury of this union, nor property or collateral in—its possession or custody, for the purpose of bestoving upon any person or number of persons any gift of intrinsic value, granting any gratuity, or as payment for any intangible service rendered or claimed to have been rendered unless expressly authorized by referendum vote.

(On May 26, 1915, a date subsequent to the adoption of section 13, the members of the International Typographical Union voted affirmatively on the following question in a referendum election:

Shall the Executive Council of the \*\*sternational Typospanical Union be authorized to expend such sums of money, from the general fund of the organization as may be necessary to continue the conduct of the business of the International such as payment for services of employes and representatives, atrike benefits and special assistance when necessary, officers' and organizers' expenses, printing, pub-Acity campaigns, convention expenses, as provided in the constitution, bylaws, general laws, convention laws and the agreement creating the International Allied Printing Trades Association as printed in the Book of Laws?\*\*

nc. 14. There shall be a defense fund maintained at a minimum of \$500,000. A one-half of one per cent assessment shall be levied on total earnings of all active members (except sick. and incapacitated members and pensioners) to establish the fund and shall be in effect for three months after the fund reaches \$500,000. When the balance of the fund falls below \$500,000 the assessment shall again be levied for three months. This fund shall be used for defense purposes.

### ARTICLE X-PENALTIES

- SECTION 1. The charter of any subordinate union which shall fail or refuse to pay its per capita tax and other moneys, or any part thereof, within three months after becoming due, shall be suspended. The Secretary-Treasurer shall give such derelict union thirty days' notice of the action to be taken.
- Spc. 2. Any subordinate union which shall fall to make reports required by law or the Executive Council, or which shall neglect or refuse to obey any law or legal mandate of the International Typographical Union or Executive Council may be fined or have its charter suspended by the Executive Council.
- SEC. 3. Any officer of the International 'l'don' may be impeached by the Executive Council, and if the charges are proven shall be disqualified to further discharge the duties of his office, and the vacancy shall be filled in accordance with the laws of the International Typographical Union.

### ARTICLE XI-APPEALS

SECTION 1. All appeals from the decision of a subordinate union shall be submitted, in written or printed form only, to the Executive Council of the international Typographical Union (one copy of complete papers to be furnished the Executive Council; both appellant and respondent musication complete copies to be used in case of appeals to convention), and decision rendered by that body. Should either party feel aggrieved at the decision of the Executive Council he shall have the right to appeal, in printed form only, to the succeeding convention of the International Typographical Union, which judgment shall be final.

SEC. 2. Appellant and respondent shall furnish copies of papers in complete form to each other, and shall be entitled to submit replies to these original articles.

## ARTICLE XII-GRI BEATTON

Every person admitted to this union either as a journeyman or apprentice member shall subscribe to the following obligation:

SECTION 1. I (give name) hereby swear (or aftirm) that I will, in good conscience and to the best of my ability, comply with and perform the Duties of Membership of the International Typographical Union, all of which shall in no way interfere with any duty I owe to God or my country.

### DUTIES OF MEMBERSHLP

SEC. 2. Every applicant for membership shall be required to sign and thereby pledge adherence to the statement of duties of membership included in this article which shall apply to and be hinding upon the applicant in relation to

membership in the union. No application shall be acted upon until this requirement has been met. The signed statement shall be filed with the application.

Sac. 3. Every member of the union shall be bound by the duties of membership included in this article and as it may

be amended from time to time.

SEC. 4. It is the duty of each and every member to refrain from revealing any business or proceedings of the International Typographical Union or any subordinate union unless such information has been published or released for publication by the executive officers of the International Typographical Union or, in matters pertaining only to local unions, by the executive officers of the local union affected. It is the duty of members not to reveal business declared confidential by their employer.

Sec. 5. It is the duty of each and every member of the International Typographical Union to comply with all thelaws, rules, regulations and decisions of the International Typographical Union and of any subordinate union thereof to which the member may belong and to support both in furthering the interests of the union in legal manner and by legal means as adopted by the union; it being understood that no subordinate union laws, rules, regulations and decisions shall be, in violation of civil laws or the laws, rules, regulations and decisions of the International Typographical Union.

Sec. 6. It is the duty of each and every member of the union to accord courtesy, fair treatment and cooperation to other members in the carrying out of the duties of membership regardless of membership in any other group or organi-

zation of any kind whatsoever.

SEC. 7. It is the duty of each and every member of the union not to belong to any group or organization of any kind which advocates the overthrow of the government of the United States or Canada by force and violence. The Communist Party has been proven such an organization.

SEC. 8. It is the duty of each and every member of the union not to belong to any group or organization of any kind, secret or otherwise, which seems to disrupt union business or elections by procedures or tactics influenced or controlled

by employers or their agents.

SEC. 9. It is the duty of each and every member of the union elected or appointed to any office or committee or delegated to perform service of any kind for the International Typographical Union or any agency or subordinate union thereof to perform such voluntary accepted duties to the best of his knowledge and ability.

SEC. 10. Any violation, evasion or failure to perform the duties of membership as herein defined may be the subject of charges and trials as provided in the bylaws of the Interna-tional Typographical Union.

SEC. 11. All other "obligations" mentioned throughout the Book of Laws of the International Typographical Union are hereby repealed. Where reference is made to the "obligation" it shall be understood to be article xii, I.T.U. constitution.

### ARTICLE XHIL-TRAVELING CARD AND WITHDRAWAL CARD

SECTION 1. The international Union shall issue, in blank form, cards of appropriate design to be known as the "Traveling Card," and the "Withdrawal Card," which shall be furnished subordinate unions at prices fixed by law, to be used by members in good standing on proper application being made therefor.

### ARTICLE XIV-THE OFFICIAL PAPER

SECTION 1. There shall be published monthly by the Secretary-Treasurer a paper of thirty-two or more pages, to be non-political and non-sectarian, and to be known as "The Typographical Journal: Official Paper of the International Typographical Union of North America," which shall be, no far as practicable, the International Typographical Union's official organ of bommunication to subordinate unions.

### ARTICLE XV-THE LABEL

SECTION 1. The label, stamp or device used, and intended to be used, by this Union, for the purpose of distinguishing the products of the labor of the members of this Union, shall consider of an imprint containing the words "Typographical Union Label," together with the name of the city or town in which is located the local union using said label. Said label shall be of the following design:



- Sec. 2. This Union shall, through its principal officers cause said label, stamp or device to be registered is all stater and territories and provinces where registration is or may hereafter be authorized by law, and all registrations heretoforé made of said label are hereby adopted and confirmed; and shall, through its principal officers, issue to local unions or subordinate bodies said label, stamp or device in such sizes as may be necessary and expedient.
- SEC. 3. No subordinate union or combination of subordinate unions shall issue a label of different design than contained in section 1 of this article, nor shall more than one design be used in any jurisdiction.
- SEC. 4. The Efecutive Council shall have identification insignia designed for use with or on type, phates, matrices and reproduction proofs or other forms of prints, the type of which is the product of union offices. The identification insignia shall be issued in the forms of logotypes and punches and shall incerporate the Typographical Union Label in the design. The Executive Council shall promulgate such rules and regulations as it deems necessary regarding the issuance and revocation of the identification-insignia.

# ARTICLE XVI-AMENDMENTS

Saction 1. Amendments to the constitution of the Interna-tional Typographical Union may be enacted only by refer-endum vote of the general membership. Such amendments may be initiated only in one of three ways, as follows: (a) The Executive Council may initiate and submit any proposition or amendment a majority of its members deems necesobtained of amendment a majority of its hrembers deems necessary. Such propositions or amendments to be published to the craft at least thirty days before taking the vote thereon.

(b) Convention may initiate any proposition or amendment a majority of the delegates deems necessary. Subordinate unions shall then discuss the proposed amendments, and at a date which shall be designated by the Executive Council, but which must be within them months from the discussion of the council of which must be within three months from the adjournment of the convention, the proposed amendment shall be voted upon by the members of subordinate unions, and the vote in detail forwarded under seal, to the Secretary-Treasurer of the International Typographical Union within ten days after the date set by the Executive Council for the taking of said vote, when the International President and Secretary-Treasurer, when the International President and Secretary-Treasurer is the local union who shall be assected by and one member of the local union, who shall be selected by the President of this body, shall canvass the vote and declare the result to the craft, and should a majority of the votes cast be in favor of the amendment it shall go into effect sixty days after the canvass of the vote on the same. (c) After one month's notice to its members any subordinate union may by local referendum initiate any proposition or ameridment and local referendim initiate any proposition or amendment and submit to other subordinate unions for endorsement. Whenever such initiative petition has been endorsed by 150 sub-ordinate unions, the endorsement of such petition having been secured within three months from the date said petition was initiated, it shall be submitted to a vote of the general membership. The proposals as submitted for the endorsement of subordinate unions with results of referendum of initiating subordinate unions with results of referendum of relitating subordinate unions shall be sublished in the first issue of The of subordinate unions with results of referendum of initiating subordinate union shall be published in the first issue of The Typographical Journal following the receipt of 150 endorsements by subordinate unions. The Secretary-Treasurer shall publish in the next issue after the three months have elapsed the full list of all unions endorsing any proposition or amendment. Within thirty days following such publication the proposal shall be submitted to a vote of the membership, which shall be taken on a day designated by the Executive Council, and canyassed in the same manner as unresidents; and results and canyassed in the same manner as unresidents; and results and canyassed in the same manner as unresidents; and results and canyassed in the same manner as unresidents; and results and results and results and results and results. and canvassed in the same manner as amendments and propand canvasion in the same manner as any convention of the continuous referred to the membership by a convention of the international Typographical Union. It shall be the duty of the Secretary-Treasurer to prepare ballots and submit any proposition or amendment initiated in either of the three ways provided: Provided, If for any reason the Secretary-Treasurer shall fall operations. Treasurer shall fail or refuse to prepare ballots and submit any proposition or amendment which has been properly initiated and endorsed, the President of the International Typographical Union shall perform the function.

Sac. 2. Propositions submitted to subordinate unions for endorsement or to the membership for adoption as herein provided shall be drafted in proper form and shall include all sections or articles amended or repealed by such proposition; Provided, For this purpose amendments or propositions shall be deemed to be in proper form if their purpose is clear and the intent understandable. Laws or parts of laws to be repealed shall be placed in brackets, and amendments to existing laws and new laws shall be printed in bold-face type.

SEC. 3. The action of a subordinate union endorsing a proposition or amendment initiated by another subordinate union shall be irrevocable.

SEC. 4. All propositions or amendments adopted by the membership of the International Typographical Union, unless otherwise provided, shall be in force and effect sixty days after the canvass of the vote on the same.

SEC. 5. The bylaws and general laws adopted by a convention of the International Typographical Union shall become effective on January 1 next following. Propositions or amendments submitted to the membership by a convention, if adopted also become effective on January 1 next following.

SEC. 6. Conventions of the International Typographical Union shall have power to enact bylaws and general laws for the government of the craft, but all laws involving increased taxation shall be submitted to a referendum vote.

### ARTICLE XVII-CONFLICTS AND CHANGES

Section 1. All laws and parts of laws in conflict with this constitution are hereby repealed or changed in accordance therewith, and the Secretary-Treasurer is hereby authorized to make necessary changes.

# BYLAWS

### 1957

# ARTICLE I—RELATIONS WITH OTHER PRINTING TRADES UNIONS

Section 1 In a jurisdiction where more than one International union has issued charters, an allied printing trades council shall be formed, in pursuance of the provisions of the agreement between the five international unions of the

printing trade.

SEC. 2. The agreement governing the International Allied Printing Trades Association and signed by the five international unions thereof establishes an association the objects of which "are to designate the products of the labor of the members thereof by adopting and registering a label or trademark designating such products; and to engage in such other cooperative efforts as may be decided upon by its Board of Governors to be in the interests of the members of this association. It is obligatory on members of this association, its officers and local councils to bear in mind this object and not confuse it with the internal affairs or duties of the several unions comprising this association as to organization and other internal matters."

The Executive Council of the International Typographical Union is hereby authorized and instructed to seek separate agreement with other international unions to such agreement, the object of which shall be to obtain the cooperation

of said unions for other purposes: Provided,

(a) Any international union may, at any time revoke its adherence to the separate agreement without in any way affecting the "association agreement" heretofore in effect since 1911 and amended in 1955 or the rights of any union thereunder.

(b) Each international union adopting the separate agreement accepts the duty and responsibility of enforcing the obligations of any subordinate union thereof which may fail or refuse to perform any obligations under the terms of the

agreement.

- (c) The Executive Councils of the several internationalunions may as deemed expedient amend the separate agreement to better attain mutually satisfactory procedure for the joint negotiation and adoption of contracts and scales; joint action in defense of the unions; joint action in organization work and in legislative activity affecting the graphic arts industry.
- SEC. 3. The Executive Council is instructed to use every effort possible to bring about the elimination of the controversy involving jurisdiction over offset presses and plates.

Sec. 4: Where two or more subordinate unions of the International Typographical Union are represented in a local

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Allied Printing Trades Council either local may call upon the Executive Council to decide questions of jurisdiction or international policy.

Sac. 5. Where dual unionism is involved the Executive Council may name the delegates of the local union to the local Allied Printing Trades Council or the Executive Council may bar delegates from a Jocal union from participating in meetings and decisions of such local councils.

Sac. 6. The Executive Council is hereby authorized and instructed to seek cooperation of other printing trades unions in any other way possible to bring joint action of a defensive character and joint action in improvement of the several unions but without sacrificing any jurisdiction of. the I.T.U.

SEC. 7. No merger with any printing trades union involving the I.T.U. shall be consummated unless approved by

referendum vote of the membership.

SEC. 8. Whenever other printing trades unions invade the jurisdiction of the I.T.U., effective counter measures shall be taken without limitations to any particular class of work."

ARTICLE II-AUDITING ACCOUNTS

SECTION 1. The President shall cause the books and accounts of the Secretary-Treasurer and the officers of the Home corporation to be audited twice a year, as follows: All accounts for the six months ending May 20, within fifteen days after that date; and for same period ending November 20, within fifteen days after that date. For this purpose he shall appoint certified public accountants, who shall make a thorough examination and shall submit a report to the President, who shall cause its publication in The Typographical Journal.

Sac. 2. If wild report should show any errors of importance, or defalcation or misappropriation of funds of the Secretary-Treasurer, or of any officer of the Union Printers Home corporation, it shall be the duty of the President, with the consent of the Executive Council, to suspend such officer or officers; and he shall proceed at once legally to secure the International Typographical Union from loss, and in accordance with the bond or bonds of said officer or officers.

SEC. 3. The International Typographical Union shall have the right to cause the books and accounts of any Conference or League, composed of members of the union, to be audited where said organization collects or solicits for any other purpose than for maintaining its functions.

### ARTICLE III-CHAPELS

SECTION 1. In all offices in which three or more members are employed a chapel shall be formed and a chapel chairman elected. In case of failure or refusal of a chapel to elect a chairman, it shall be the duty of the local president to appoint a member to act as chairman.

Suc. 2. The chapel chairman shall be recognized as representative of the local union for such purposes as are



specified in the laws of the International Typographical Union and it shall be his duty to report to the president of the local union any violation of union law or provisions of the contract. Failure to perform the duties of his office shall render a chapel chairman diable to such penalty as the local union may apply in accordance with the laws governing charges and trials.

Sec. 3. In performing the duties prescribed for him in the general laws, pertaining to violations of contract or scales of prices and the enforcement of the five-day week and overtime laws, the chapel chairman shall not be subject to any intervening action by the chapel. As a representative of the local union in such matters he is directly responsible to the local union.

SEC. 4.. Chapel dues may be charged and collected in a manner that is equitable. Moneys raised by chapel dues may be used for the purpose of compensating chapel officers and otherwise enabling the chapel to perform functions required of it by International and local laws and the contract governing the office in which the chapel is located. Moneys raised by chapel dues may not be expended for any other purpose unless expressly authorized by a chapel law which does not conflict with any law of the subordinate union.

SEC. 5. Each chapel shall adopt rules for the government of its members. Such rules shall not conflict with local contract, civil law or the laws of the International of Pocal unions. The chapel shall be final authority on application of such chapel rules which shall be confined to chapel matters only. It shall not have authority to interpret, apply, or consider on appeal any matter involving local or International laws or provisions of local contracts, except appeals from discharge when so provided by contract.

SEC. 6. Members of a chapel, even though they constitute a majority of the subordinate union, shall have no right in chapel meetings to take any action amending, suspending, or in any way affecting the laws or contracts of such union.

SEC. 7. It shall not be unlawful for chapels by majority vote to adopt a rule providing for fining a member of the chapel for nonattendance at chapel meetings when present in the office during the time said chapel meetings were being held; for violating chapel rules; provided, said fines shall not exceed ten dollars. Chapels have no authority to fine otherwise.

SEC. 8. Local unions by law, may delegate authority other than above specified for chapels or chairmen of chapels; provided said authority is confined to local matters.

SEC. 9. When chapel chairmen take action under provisions of this article, it is mandatory that such action be reported to the president of the local union within 24 hours.

# ARTICLE IV-CHARGES, TRIALS AND APPEALS

SECTION 1. Charges may be preferred against any member for any disreputable act, conduct unbecoming a union mem-

her, violation of the sof the local or International Union, or failure to observe provisions of the contract and scale of prices. Individual members may file such charges or officers of local unions may be instructed by majority vote of members present and voting at a stated meeting of the union to Bring charges against a member.

ART. IV

- SEC. 2. Charges may be filed against any officer of a local union for neglect of duty, failure to comply with the laws of the local or International Union, misappropriation of union funds or malfeasance in office.
- SEC. 3. When a subordinate union is cognizant of the performance of a disreputable act on the part of a member not working within its jurisdiction, whether such act was committed within its jurisdiction or not; it is its duty to prefer charges against him before the union under whose jurisdiction he does work.
- SEC. 4. Accusations of charges must be made in writing by a member of the union in good standing. In all cases charges must be signed by the complainant and shall be sufficiently specific as to the provisions of union law violated and, the alleged acts which constitute the basis of the charges to permit the defendant to prepare a proper defenge. Should the complainant withdraw the charges more than 72 hours after filing same with the president of the local union, or should the union at the next stated meeting deem the charges not cognizable, the complainant may be fined as sum of not more than \$25 by action of the union or be subject to charges and trials himself.
- SBC. 5. Within thirty days of the time complainant becomes cognizant of the offense alleged, two complete copies of the charges shall be delivered to the local president, who shall immediately cause to be delivered to the accused member a complete copy of the charges as filed.
- SEC. 6. The member accused shall have five days after receiving the charges, if he so elects, in which to file a written answer with the president of the lotal union; or he may waive his right to answer without prejudicing his interest.
- Sec. 7. At the next stated meeting of the union after the accused member has filed or waived answer, the president shall cause the charges and answer as filed to be read to the union. After discussion and consideration the following question shall be put to a vote by secret ballot: "Shall the charges as presented be deemed cognizable?"
- SEC. 8. If a majority of the members present and voting record an affirmative vote a committee of five members shall be appointed by the presiding officer to investigate the charges, provided, local unions with less than 50 members may function with a committee of 3. Such committee shall give opportunity to all parties to the controversy to be heard. The accused member may waive the right to appear without prejudicing his interest; and may waive his right to an investigating committee, in which case the union shall proceed to appoint or draw by lot a trial committee.

#### TRIALS .

SEC. 9. The investigating committee shall report its findings at the next regular meeting following the meeting at which it was appointed. A majority vote of members present and voting by secret ballot shall decide whether or not the charges shall be considered worthy of trial. If the charges are found worthy of trial the presiding officer shall appoint a committee of five to try the case, provided, local unions with less than 50 members may function with a committee of 3. If either party shall object to appointment, or to the personnel of the committee as appointed, a committee of five to try the case shall be drawn by lot from the members present, provided further, unions with less than 50 members may function with a committee of 3. The complainant, the accused and members that provided witnesses shall not be eligible to serve on the trial committee.

SEC. 10. The trial committee shall notify complainant, accused and their witnesses of time and place of sitting. Roth parties shall have right of counsel, who shall be members of the union. Either party may demand that witnesses shall be sworn by a notary public or official authorized to administer oaths. If either party shall fail to appear, unless excused by trial committee for cause, the trial shall proceed. The trial committee for cause, the trial shall proceed. The trial committee may adjourn its hearings from time to time, but all parties, must be given due notice of time and place of all sittings.

SEC. 11. At the next stated meeting of the union after a verdict has been reached the trial committee shall report its judgment and the evidence to the union. After the trial committee's report has been read the accused shall have the right of defense before the union. The report of the trial committee, the evidence introduced, and any defense offered by the accused before the union-shall be open for debate.

SEC. 12. Where the membership of a subordinate union is in excess of 500 the subordinate union may adopt regulations for the trial of charges different from the foregoing procedure: Provided, The verdict when rendered must be approved by secret ballot at a stated meeting of the union; Provided, further, That subordinate unions may establish discipline committees to investigate minor infractions of union law or the scale of prices; such committee may after a hearing, where all interested parties are afforded a fair opportunity to be heard, impose fines of not more than one day's pay for any violation. In all cases before a discipline committee complaints must be signed by the complainants and shall be specific as to the provisions of the law violated and the alleged acts which constitute the basis of the complaints to permit the defendant to prepare a proper defense. Penalties or other decisions of discipline committees are subject to appeal in accord with International law governing appeals.

SEC. 13. The presiding officer shall submit to vote of the members present the question of guilt or acquittal. Twothirds vote of members present and voting by secret ballot shall be necessary to convict. If more than one offense has been charged the vote shall be taken separately on each

charge in the same manner.

Sac. 14. If the charges or any of them be sustained, or if the accused pleads guilty, a vote shall then be taken on the penalty, if any, recommended by the trial committée, but this recommendation may be amended and the vote shall be first upon the heaviest penalty proposed. It shall require three-fourths vote of members present and voting by secret ballot to suspend or expel. Any lesser penalty may be imposed by majority vote.

SEC. 15. Upon first conviction for violating union law the maximum penalty shall be a fine not to exceed \$50, except in case of conviction of a member for ratting. Where suppension is provided as part of a penalty against a convicted member the period must be fixed and no right shall be affected other than that he shall not work at the printing trade during the period of suspension. Priority standing and benefits of continuous membership shall be retained by payment of dues and assessments as not at the trade. He shall be reinstated automatically at the end of the period of suspension without payment of any fee except that he shall pay any fine that may have been fixed as a part of the penalty at time of conviction.

Sac. 16. All expenses incurred in connection with the trial shall be bornse by the union in-case of acquittal: Provided, Fees of counsel shall not exceed pay for time lost at the scale

of the union.

SEC. 17. A member charged with deliberate ratting may be summarily expelled by the Executive Council in cases where the International Union is conducting a strike or organizational campaign without citing him to appear for trial or a subordinate union may expel a member for deliberate ratting without citing him to appear for trial if the report of the investigating committee is supported by three-fourths vote of members present and voting. A local union may expel any member of the International Typographical Union found guilty of ratting within its jurisdiction. Notice of such expulsion must be forwarded to the local union with which the expelled member was affiliated and to the Secretary-Treasurer of the International Union.

Sac. 18. When a union arraigns a member on any cause without its jurisdiction, and the party so arraigned has formerly been in good standing with the craft, it is the duty of said union to give him official notification of the charges preferred and allow him the privilege of defending himself in

open meeting.

Sac. 19. When, through the action of a local union, a member is suspended and debarred from the right to work at the trade, and is subsequently proven guiltiess of infraction of international or local laws, said local shall be compelled to remunerate, at its prevailing scale, such suspended member for the time lost while under suspension.

Sac. 20. The evidence of rats shall not be received in the trial of union men for any cause whatever, as they are under

the ban of the union, and not recognized by it as honerable men. Evidence gleaned from the books and bbokkeeper of an office abould be considered good evidence on trial of a union man for violation of scale, unless surrounding circumstances or union evidence in rebuttal weakens or destroys it.

SEC. 21. No evidence shall be received or considered by a committee appointed to try charges except such as shall be offered at a regular hearing of the committee, at which all parties interested shall be, or shall have been, notified to be present.

Sec. 22. The accused may, if he so desires, waive any and all of the rights guaranteed to him by the constitution and bylaws; and upon such waiver the union may, by a majority vote, proceed to act. Nothing herein contained shall interfere with the appeal rights of the accused. The defendant to charges shall not be compelled to testify.

Sec. 23. A member charged with contempt of the union or a committee of the union shall be accorded full privileges of trial and upon conviction may be punished in the same man-

ner as if convicted of another offense.

SEC. 24. Any member bringing charges against another which he fails to sustain by proper evidence may, by a two-thirds vote of the union, and without referring the matter to any trial committee, be censured or fined an amount equal to the expense of the trial, or both censured and fined.

#### APPEAL S

SEC. 25. A member who has been convicted of any offense against the union and who believes his conviction was irregular or unjustified may appeal to the Executive Council by giving proper notice and following procedure governing such appeals.

SEC. 26. When a local discipline committee '(authorized by section 12 of this article), or a local executive committee, has rendered a decision or verdiet against a member or members, and appeal is taken therefrom, such appeal shall be acted upon at the next stated meeting of the subordinate union.

SEC. 27. When a subordinate union has taken an action or rendered a decision, any aggrieved member, members, chapel, or employer having a contract with said subordinate union, or any applicant for admission whose application has been rejected, may appeal as provided in the constitution and bylaws. In all instances where applicants for membership in the union are rejected, they shall be furnished with a copy of I.T.U. Appeal Procedure which will be supplied by the Secretary-Treasurer of the I.T.U. on request.

Sec. 28. Notice of intention to appeal to the Executive Council must be filed in writing with the president of the subordinate union with which the appellant is affiliated within five days after the action is taken or the decision rendered by

the subordinate union.

Snc. 29. Appellant shall prepare and file with the president of the subordinate union two complete copies of appeal brief

with all evidence and argument within twenty days after the action or decision of the subordinate union against which appeal is made.

SEC. 30. The respondent union shall have prepared two copies of its reply and file same with the president of said subordinate union within twenty days from date appeal brief is received. One complete copy of the raply containing all evidence and argument shall be immediately transmitted to appealant.

SEC. 31. Appellant shall have five days from date reply is received in which to prepare and file, as above provided, a rebuttal brief. If no rebuttal brief is filed as above provided, one copy each of the original appeal and reply briefs shall be transmitted to the Executive Council and a decision rendered

upon the evidence and argument contained therein.

SEC. 32. If appellant files rebuttal brief as above provided, respondent shall have five days from date it is received in which to prepare and file surrebuttal, in which event the case shall be considered closed and cupies of all documents transmitted to the Executive Council by the president of the subordinate union. If a surrebuttal is filed by respondent, copy of such surrebuttal shall also be furnished to appellant on the date all documents are transmitted to the Executive Council. If no surrebut al-is filed by the respondent union within five days from the date on which rebuttal brief is filed by appellant, all documents in connection with the appeal shall then be immediately forwarded to the Executive Council. On the same date that documents are transmitted to the Executive Council, appellant shall be notified that no surrebuttal will be filed and that all documents in connection with the appeal have been so transmitted.

SEC. 33. The President of the International Union may extend the time in which either party is required to file argument and evidence in appeals to the Executive Council If, in

his opinion, justice will be served thereby.

SEC. 34. When the contention of a member who has appealed to a subordinate union is sustained by action of such subordinate union and an appeal is taken to the Executive Council therefrom, the original appellant shall have the right to participate, or be represented by counsel, in preparation of respondent union's answer? Upon demand to the president of the subordinate union he shall be furnished with copies of all documents as transmitted to the Executive Council and he shall also be permitted to transmit to the Executive Council a reply to all evidence and arguments in the case.

SEC. 35. Where app. I is made against an action or decision of a subordinate union the action or decision of the subordinate union must be compiled with by all parties pending decision by the Executive Council. In cases involving dues, assessments, fines, or other moneys assessed by the subordinate union against a member, a sum sufficient to cover the amount in dispute shall be deposited with the president of the subordinate union to be held in escrow until decision has been rendered by the Executive Council. When a subordinate

union has rendered a verdict of censure, reprimand, suspension, expulsion, or revocation of membership, it shall not be enforced pending final decision if appeal be made as provided herein. Where a rejected applicant appeals in accordance with the provisions herein and the Executive Council sustains the appeal the local union shall obligate the applicant upon payment of proper fees and dues.

Sec. 36. All parties to an appeal, in cases where docu-ments are submitted, are required to make affirmation as to the truth of their statements. The written signature of the parties in interest shall be considered as such affirmation.

Sec: 37. Either the appellant or respondent may appeal against decision of the Executive Council, or any subordinate union affected as such by a decision or action of the Executive Council may appeal to the next succeeding convention of the International Typographical Union.

Sec. 38. The party or subordinate union desiring to appeal against a decision or action of the Executive Council shall against a decision of action of the Executive Counce small give to the International Secretary-Treasurer notice of such appeal within aixty days of theddate of the decision or action against which appeal is to be made: Provided, No such appeal shall be considered by a convention unless notice as herein provided shall have been given prior to the first day of the month in which the convention is held.

SEC. 39. Copies of all documents, evidence and arguments must be transmitted to the International Secretary-Treasurer within sixty days after notice of appeal shall have been given. All appeals to a convention must be in printed form and only the b the briefs, documents and evidence upon which decision of the Essentive Council was based shall be presented to and considered by the committee on appeal. Provided, That appellant shall have the right to include in his printed appeal an argument based upon the decisions of the Execu-tive Council from which the appeal is made.

Spc. 40. The appellant shall furnish to the International Secretary-Treasurer on or before the day previous to the convention at which such appeal is to be considered, not less than five hundred copies of the appeal to be distributed by the International Secretary-Treasurer to each delegate in

attendance at the convention.

Suc. 41. In cases of appeal by a subordinate union, a memper, or members against a decision or action of the Executive Council the decision or action of the Executive Council shall be complied with unless and until such decision or action hall have been reversed by the convention: Provided, If such fecision or action of the Executive Council be not so reversed he decision or action shall be final and there shall be no urtiler appeal therefrom.

Sec. 42. Any subordinate union, member, or members efpaing to accept and observe a decision or action of the Executive Council pending appeal to a convention, or any subordinate uhion, member or members refusing to accept and observe decision of a convention upon a matter that has een appealed shall be subject to summary expulsion by he Executive Council.

Sec. 43. Any subordinate union, member, or members as antistived with the judgment of the court of last resert (the courts) of the linerastical Typographical Union) and who each; redeem in the courts, shall be required to depose with the Emectative Council as approved beand sufficient to cover the costs entated by the linerasticant Typographical Union in defending the action, and the same precedure that to followed when any member or members duffi sack as injunction inpains the international Typographical Union of the College of the court of the same precedure of the court of the cou

Sec. 44. In no case shall a member appeal to a civil bourt or any other agency for redress from an action by the union until he has outhausted his rights of appeal under the laws of the lasternational Union. Any member who violates this action shall be liable to summary expulsion by the Executive

# ARTICLE V-CHARTERS

- Secretar 1. Application for charters must be made upon the form prepared therefor, which may be had upon request to any international representative, or will be furnished upon application to the President or Secretary-Treasurer of the injuractional Typographical Union.
  - Suc. 2. Any person under the ban of exputation in a suborlinate union can not become a charter member of another miles.
- Sac. 3. A union applying for a charter is required to submit its constitution and bylaws for examination and approval by the international President, also a list of its officers and
- Sic. 4. Each person signing an application for a charter shall pay the sum of \$5, \$2 of which shall be transmitted to the Secretary-Treasurer of the Interactional Typographical Union in payment for the charter and court provided for in sub-section d of section 4, article vill, bylayer, the remainder of which shall be retained in the local union treasury. This is in addition to the cost of the I.T.U. heacons in unionism which all applicants for membership in the I.T.U. are required to pay in accordance with the provisions of section 3, article xvi. I.T.U. belows.
- Suc. 5. A charter shall contain as the official designation of the union the name of the city or town in which it is located and some other.
  - Suc. 6. Where a city is absorbed in the corporation of another, and a union exists in both, the smaller union shall be merged into the larger.
- Sec. 7. A subcedinate union has not the right to erase the names of charter members (who may have ceased to be union members from any cause) from their charters and substitute others in their places. The charters (as to names) must remain as issued by the international Union. This shall reoperate to prevent a union attaching to such charter, on a separate these, a stack of the delinquency or degeneracy of any party whose name appeared thereon as a charter member.

Sec. 8, It is competent for a subordinate union to take a charter from any state within which it may be located, in order to protect itself in the possession of property and other legal rights, but the charter of the international Union is supreme, and governs in all craft matters where it does not conflict with the laws of the state or nation.

Sac. 9. A majority of a union can not by vote surrander its charter. A charter may be granted to eight applicants who are members of the i.T.U. or eligible for such membership, and a union can not be dissolved while there are that number of members (other than proprietors and members not actively working at the trade) in good standing desirous of retaining the charter. Where local unions are composed of less than eight members other than proprietors and members not actively working at the trade, and it is proved to the International Executive Council that union-conditions are not being maintained, the Executive Council shall order the charter revoked.

Sec. 10. With the corvent of the Executive Council two unions may consolidate by a majority referendum vote of each union: Provided, That thirty days' notice of the proposed vote shall be given at a meeting of each union concerned and that voting shall be limited to members (other than propriators and members not actively working at the trade) in good standing in their respective local unions for not less than six months.

# ARTICLE VI-DISCIPLINE-GENERAL

Secrees 1. In offices under the jurisdiction of the International Typographical Union the foreman is the only person to whom to apply for work, and any person securing work, or attempt: to secure work, in any department under the lurisdiction of the foreman, in any other manner than by application to said foreman, shall be deemed guilty of collect unbecoming a union man, and, upon conviction before a trial board, shall be suspended or expelled, as three-fourths of the members may determine: Provided, That nothing in his section shall be construed to conflict with the rights of nembers holding situations to employ competent substitutes without consultation or approval of foremen.

Suc. 2. It shall be unlawful for any member of the International Typographical Union to belong to any secret organzation, oathbound or otherwise, the intent or purpose of
which shall be to influence or control, the legislation or the
uniness of such local union or of the international Typorapical Union, the selection of election of officers of mocal or international Union, or the preferred or other sitnations under their jurisdiction. Any member guilty of a
folation of this section shall, upon convection of a first
flense, be deprived of the right to hold office in the local
f international Union; and upon conviction of a second
flense, shall be expelled. Any member belonging to, or aidtag in the formation of, any organization dual to the Internaonal Typographical Union may be summarily expelled by
the Executive Council without formal trial upon proof of

such fact satisfactory to the Executive Council. The failure (within 30 days of date of demand) of any member to declare under oath, his affiliation or non-affiliation with an organization declared dual by the Executive Council of the International Typographical Union, shall be deemed as proof that the member is affiliated with a dual organization. Any subordinate body of the International Typographical Union may be dissolved, or its charter may be revoked, or the International Typographical Union Executive Council may take full and complete charge of all the affairs of such organiza-tion when it is deemed necessary to protect the jurisdiction of the International Typographical Union. Notice by firstclass mail to last known address of any member from whom the Executive Council demands a declaration under this law shall be sufficient.

Sec. 3. Assignment of wages for any purpose, where an ultimate profit is received by members or others, is forbidden everywhere within the jurisdiction of the International Typographical Union, nor shall any member act as an agent for outside usurers. Printers' benevolent societies are not included in the operation of this act. if the society does not charge interest in excess of 1 percent per week. Upon the presentation of charges, local unions shall try the issue and decide whether this section has been violated, and impose such penalties as may be deemed necessary.

Sec. 4. No member shall be allowed to use the name or number of a local union or the name of the International Union as an imprint on commercial printing, or for any other purpose, without the sanction of the union.

SEC. 5. Any member of a subordinate union having wronged a sister union by the misappropriation of funds shall have his card revoked by the union of which he is then a member, upon such union being notified of the misappropriation, under seal of the union, unless the delinquency is paid and forwarded to the union in which he is a defaulter.

Sec. 6. Any member of a union engaging to take a situation in the jurisdiction of another union at a lower rate of wages than the scale of prices of the latter union calls for, is guilty of ratting, even though the situation may not be obtained.

SEC. 7. It shall be a misdemeanor, punishable by expulsion, for one union man to make application for the position of another union man in any office.

SEC. 8. Any member who shall counterfeit or imitate the International dues stamp or working card, or knowingly use . such imitations or counterfeits, shall be fined not less than \$50, or be expelled from this union, as the circumstances may warrant, after trial has been accorded the accused.

SEC. 9. It shall be unlawful for a member of any subordinate union of the International Typographical Union to perform a day's work in any office under the jurisdiction of the local union to which he or she may belong, and at the conclusion of the day's labor to perform work over which the I.T.U. has jurisdiction in any other shop or place without permission of the local union.

Sac. 10. When a vote is taken in a meeting of a subordinate union on a reduction of a scale, alteration of a scale, or any dispute as to the construction of a scale or in relation to the surrender of a charter, it must be by secret ballot. Any union violating this law shall be fined \$10 for the first offense, and for the second offense its charter shall be suspended by the Executive Gouncil, subject to the approval of the next convention of the International Union.

SEC. 11. No member of a subordinate union shall be entitled to vote upon a proposed change in the scale of prices, to adopt a recommendation of a scale committee, or to accept a counter-proposal of an employer or employers received through concialiation, unless he has been a member of said union for the previous six months, and is in good standing, except where the union has been in existence for shorter period. It shall require a majority vote, by secret ballot, of such qualified members present at the meeting to adopt. Members classified as proprietors or not-at-trade for dues payment purposes shall not be eligible to vote on matters pertaining to wage scales.

SEC. 12. The term "secret ballot" shall be applied to guarantee secrecy and may be by printed ballot or by white and black balls.

# ARTICLE VII-DUES AND ASSESSMENTS

SECTION 1. Every member, except those residing at the Union Printers Home, who shall be considered members in good standing (and-who upon admission to the Home, may take the option of accepting payment of funeral and burjar-expenses in the Home piot as a burial benefit and be exemptrom mortuary assessment or claim the full benefit to which they would be entitled on payment of 35 cents each month, which amount must be paid and reported to the Secretary-Treasurer monthly), shall pay the International Typographical Union per capita tax and assessments for any given dues month on or before the tenth day of the next succeeding calendar month, and on payment of the same shall receive from the local union in which membership is held an international working card or due stamp so canceled by the local officers as to indicate the month or months for which International dues have been paid.

SEC. 2. The dues month of each subordinate union shall end on the last Saturday of the calendar month and members, shall pay assessments for that dues month on all wages received during the dues month, regardless of the particular day of the week which may have been selected for pay day in any shop. Every calendar month having four Saturdays will be a four-week dues month and every calendar month having five Saturdays will be a five-week dues month.

SEC. 3. Every member must demand, and shall receive, on payment of the proper sum, dues stamps or a working card for each month's dues paid. The card shall show the sum paid for per capita tax, local dues, old age pensions and mortuary assessments, and such other assessments as may be levied by the local or international Union, and the date of said pay-

ments. It shall be optional with subordinate unions to choose either the adhesive stamps or working cards bereinbefore mentioned, but in every instance an adhesive stamp shall be attached or a stamped working card issued for each month's dues paid, and the stamp or card canceled to show the par-

ticular month's dues paid.

Suc. 4. The secretary of each local union shall make an itemized report each month to the Secretary-Treasurer of the International Union, showing the amounts of local dues, per capita tax and assessments collected from each member, the date when each member paid his dues and the dues month for which payment was made. The names of members shall be arranged in alphabetical order in the itemized report, except that where collection is made by chapels, the report may be arranged in alphabetical order by chapels. The itemized report and the stamp report required by section 18, article xx, bylaws, for any dues month shall be transmitted to the Secretary-Treasurer of the International Union on or before the 20th day of the succeeding calendar month.

Sec. 5. In cases of members holding traveling cards and so situated as not to require active affiliation with any subordinate union, the per capita tax and assessments shall be collected by the proper officer of the union in which said traveling card is deposited or presented for renewal, and the amount so received shall be shown on the card issued by affixing International due stamps in such a manner as to indicate the payment of monthly per capita tax and assessments in regular sequence; and the secretary of the union shall report to the Secretary-Treasurer the amounts collected for each

month in the same regular sequence.

Sac. 6. Any number who is not in possession of an International working card for the current month, or to whose card International due stamps showing all dues up to the current month to have been paid, as provided in section 1. are not attached, shall be deemed as delinquent to the International Union, and shall not be entitled to any benefits or to be a candidate for any office in the International Typographical Union.

SEC. 7. Members of subordinate unions or members holding traveling cards shall stand suspended when four months in arrears for local or International dues or assessments. Members suspended for non-payment of dues shall have no standing in the organization and shall not be entitled to

benefits.

SEC. 8. It shall be the duty of the subordinate unions, on request of a member who is sick or disabled, and who shows that he is in destitute circumstances, to protect his membership in the organization during such sickness or disability, the local union to be reimbursed for this expenditure by the member benefited after recovery. It shall be the duty of the Secretary-Treasurer of the local union, or of a committee specially designated by the union for this purpose, to check at least once every three months on all members for whom the union is paying dues. The purpose for such periodic checkup is to ascertain the continuity of the illness of the

member, the desire on the part of the member to have the union continue to keep him or her in good standing and for any other reason deemed by the union to be appropriate. Should it be later found that such member was not actually sick or was not entitled to have his or her membership protected under this section of our laws, liability for reim-bursement for dues paid by the local to the I.T.U. shall not exceed three months.

Sec. 9. Local dues shall be charged from the first day of each month, except in cases where the member has paid the current month's dues, or in instances where the percentage system applies. In cases where members deposit traveling cards showing International per capita tax to have been paid in advance, local unions when collecting dues shall allow full credit for the amounts so paid.

Sec. 10.0 No members of a subordinate union shall be allowed to pay dues in the jurisdiction of one union while working under that of another; and no subordinate union shall receive dues as aforesaid. Dues of right belong to the union under whose jurisdiction the party is working.

Sec. 12. No subordinate union shall have authority to assess its members for payment of life insurance premiums.

Sec. 12. Dues and assessments must be paid on money received as a bonus, as vacation pay, or as a gift or gratuity for services performed at the printing trade, and on all money deducted from earnings for taxes, group insurance, health and welfare programs, pensions of any nature, and unemployment insurance. No dues and assessments shall be paid on benefits received by sick or disabled members under health and welfare programs: Provided, That when a member traiting or leaves his amplement of a sur-grant health. ber retires or leaves his employment for any reason he shall not be required to pay assessments on any monies received from an industrial pension fund.

### ARTICLE VIII-DUTIES OF INTERNATIONAL OFFICERS THE PRESIDENT

SECTION 1. The President shall attend and preside at all conventions of the International Typographical Union during his term of office; he shall have the casting vote whenever there shall be an equal division on any question, except where he shall have voted on the call of the ayes and nays.

He shall require a faithful performance of duties on the part of all officers and a strict and businesslike manner of keeping all accounts, paying out money, and conducting correspondence.

He shall see that all moneys belonging to the International Union are properly deposited in responsible banks, in the names of the President and Secretary-Treasurer as such, and money shall be drawn from such banks only by check signed by the President and Secretary-Treasurer, and only then when both officers are fully satisfied that such money is lawfully and justly due the person or persons for whose benefit the check is drawn.

He shall, with the approval of the Executive Council, appoint all necessary representatives, shall oversee and direct the operations of representatives, and shall, when necessary, visit such place or places as may require his presence of personal attention.

He shall establish and maintain a statistical bureau in the International office for the purpose of compiling information and statistics relative to the printing trade and general economic conditions, sich data to be at all times available for

use by subordinate unions.

He shall direct and maintain a bureau of education, which, in addition to the preparation of educational material for apprentices, shall prepare and sell, to members only, a course in advanced composition and such other educational materials as may equip members to master new operations which come under the jurisdiction of the International Typographical Union.

He shall direct and maintain a label bureau, which shall aid subordinate unions in the work of creating a demand for the use of the union label upon all printed products and publications. This bureau shall create and maintain an active campaign, on an international level, for the promotion of the Union Label and the goodwill of the International Typo-

graphical Union.

He shall be the representative of the International Typographical Union to the International Allied Printing Trades Association, and shall appoint such other representatives to the maximum number to which this union is entitled.

He shall, before accepting the official bond of any officer, be satisfied that such bond is valid and in proper form, and for that purpose he is empowered and instructed to take competent legal advice upon the matter; he shall in case of his mismanagement or misappropriation of any funds of this union by any official charged with the custody, collection and disbursement thereof, at once proceed to collect the same from the official in default, or, in the event of the failure of such officials to make good such deficiency, institute legal proceedings against such defaulting officer and his sureties.

Should inaccuracies appear in the report of the auditing committee of a local union, or if the International President has reason to believe there is a shortage or misappropriation of funds, he shall designate a representative to take charge of the financial affairs of such subordinate union and may appoint a certified accountant to make examination and audit the books and accounts of said union. The certified accountant to employed shall be authorized by the International President to take possession of all financial books, records and account of said subordinate union and make such audit and file such report is directed by the Interna-tional President. The leport and findings of the certified accountant shall be filed with the president of the subordinate union by the President of the International Union. The president of the subordinate union shall proceed in the civil or criminal courts, or in accordance with the laws of the International Union governing charges and trials, as the facts appear to warrant. The subordinate union shall beaf the expense of the audit and prosecution of those responsible for the shortage of misappropriation.

- The above authority shall also be exercised by the Presi-

dent with regard to chapeis.

SEC. 2. The President shall issue monthly a publication to be known as The Bulletin which shall contain statistical material; factual data; information helpful to local unions, the members thereof; to scale committees and board of arbitration. There shall also be printed in The Bulletin decisions of the Executive Council rendered on ppeals. Such official Bulletin shall not exceed forty pages in size and shall be supplied to the president and secretary of each subordinate union; to the chairman of any scale committee requesting the same and in so far as possible to the chairman of chapels of ten or more members.

#### VICE-PRESIDENTS

SEC. 3. The Vice-Presidents shall perform such duties as are set forth in the constitution and as may be required by law. In the performance of duties assigned by the Executive Council, as provided in section 3, article vi. ef. the constitution, Vice-Presidents shall be under the direction and control of the President.

### SECRETARY-TREASURER

SEC. 4. The Secretary-Treasurer shall act as the financial officer of the International Typographical Union and as secteary of the conventions of this union.

(a) Conventions.—He shall have the reports of the officers f the International Typographical Union printed in pamphlet form, and a copy of such reports shall be mailed to every delegate-elect as soon as possible previous to the assembling of the convention; he shall publish in the July number of The Typographical Journal, as a part of the regular edition, the annual reports of the officers; he shall furnish each subordinate union, prior to the election of delegates, with two (or more where needed) copies of blank delegate certificates of election; he shall make a just, true and complete record of each and every day's proceedings, to be printed and laid on the desks of delegates each morning during the sessions of the convention; he shall, immediately after the final adjournment, cause the same to be made up in the form of The Typographical Journal, and published with a regular edition of that paper at as early a date as possible; he shall, in connection with the President, compile and publish in uniform size, within sixty days following the canvass of the vote on amendments submitted to the membership after each convention, a Book of Laws, containing the Constitution. Bylaws, General Laws and Convention Laws of the International Typographical Union, also the Constitution, Bylaws and Rules of Government of the Ualon Printers Home, and distribute exples thereof to local unions in sufficient numbers to supply their full membership.

(b) Fonds.-He shall procure interest whenever possible on all funds deposited by him on the direction of the Executive Council, and cover the same into the treasury of the International Union; he shall have the custody of all bonds. to secure the deposit of the funds of the International Union: he shall draw moneys from bank only by check signed by the President and himself; he shall require all bills against the International Union to be itemized, and shall only pay such bills as are in accordance with the order of the International Union direct, or its laws, and after approval of the President; he shall have the books of deposit with all banks balanced at the end of each fiscal month; he shall submit all his books and accounts to the expert accountance twice a year; he shall send all receipts for money received from financial officers of subordinate unions to the disbursing officers of said unions. acknowledging, by postal or otherwise, the re sipt thereof to president of such subordinate unions, stating what month the payment is for, the amount and by whom sent; he shall at least once each month transfer and pay over all moneys by him held to the credit of the Union Printers Home fund, to the Secretary-Treasurer of the Union Printers Home corporation, and shall take his receipt therefor; he is authorized to pay the assessments of the American Federation of Labor and Congress of Industrial Organizations as they fall due; he is authorized to pay to the Canadian Labor Congress a per capita, tax on all members of the International Typographical Union in good standing in the Dominion of Canada, he shall keep a file of the bonds of the fiductary officers of subordinate unions and notify the presidents and secretaries of such unions that said bonds are about to expire thirty days previous to such expiration; and he shall keep at headquarters a set of records in which shall appear the names of all of the members of the International Typographical Union, together with the sum of modey paid by each as per capita tax and ansessments to the International Typographical Union in monthly sequence, as reported by the secretaries of subordinate unions, and these records shall show the standing of the members in the organization.

(c) The Typographical Journal.-He shall publish in The pographical Journal: A sworn statement of the balances off his bank books of deposit monthly; a full monthly statement of receipts and disbursements of all kinds, except that disbursements pursuant to article xis, section 17 of the Bylaws shall be published only in such detail as the Executive Council shall direct; on or before the first of each month a list of arrearages of subordinate unions, and if said arrearages : fe not paid with a thirty days thereafter the presidents of all such unions shall then he officially notified; he shall exclude from the columns of The Journal all commu. .ations. or other matter impugning the motives or reflecting upon the benesty of members of this union; he shall provide for the President and for each member of the Executive Council a department in which each of the officers, without interference or censorship, may discuss or present to the membership any matter or topic pertaining to the business or interest

of the membership of this union.

- (d) Supplies.—He shall furnish subordinate unions with bound copies of the Union Traveling Card, in books of 25, 50 or 100 cards, as may be desired, at the prevailing list price, upon application: blanks books for traveling cards received and issued, and blank applications for the mortusary benefits; he shall prepare a "chatter outfit," to include books. blanks and seal, and a form of "Pelition for Charter," and au charter shall be granted unless presented on this form.
- (e) Missellaneous.—He shall conduct all his business, correspondence, etc., in a prompt and systematic manner, keeping files, etc., of all documents, and copies of all correspondence, he shall have power to procure all necessary printing required by the officers in conducting the official correspondence and other business of the union and shall employ such assistants as shall be deemed necessary by the Executive Council.
- (f) Membership Record and Register Number .- He shall establish and maintain in his office a complete record of all journeymen active members of the International Typographscal Union. This record shall contain the age of each member, the date of his initiation, where initiated; the date and cause of suspension or expulsion, the date of reinstatement or reinitiation, together with the date of death and such other matter as may be deemed necessary by the Executive Council to determine the continuous membership of any member of the International Typographical Union; Every member shall fur-nish on a blank provided for his use the date of his birth, the date of initiation and such other statistics as are necessary to show clearly the length of his continuous membership. The membership statements filed with the Secretary-Treasurer are only for the use and information of the officers of the International Union in the payment of benefits contingent upon continuous membership. The Secretary-Treasurer of the International United is hereby authorized and instructed to refuse to make public the record of any member except as the husiness of the International Union may require. Every member shall be assigned a register number by the Secretary-Treasurer of the International Typographical Union, and he shall thereafter be officially known by such register number. Such books as are necessary for the use of local unions in keeping a proper record of their members, and the payments of dues and assessments made by such members, shall be kept in stock by the Secretary-Treasurer of the International Typographica! Union and sold to local unions at # price to be determined by the Executive Council: Provided, it shall not be obligatory upon the part of local unions to purchase their record woks from headquarters. Any local union desiring to-do so s' ill have the privilege of printing its own record books and arranging them so as to permit of the keeping of data in ad-it ion to that requird by the International Union.

# EXECUTIVE COUNCIL

SEC '5. Meetings of the Executive Coucil shall be held on call of the President in such city at such place and time as the President shall direct for the transaction of such business as may be properly placed before the 1 secutive Council for

consideration. Such notice may be either verbal or written. Notice of meetings shall be give through the International Secretary-Treasurer and whenever so directed by the President notice to three members shall be sufficient. At any meeting of th: Executive Council three members, two of whom shall be the President and Secretary-Treasurer, shall constitute a quorum. The vote of three members of the Executive . Council shall at all times be necessary to decide any question, approve or disapprove any matter properly brought before it for consideration and decision. Any action supported by threemembers shall be accepted as an action of the Executive Council of the International Typographical Union: Provided, The Executive Council shall not take action or render a decision which shall interfere with the duties or obligations specified for the President or Secretary-Treasurer in the constitution.

Sec. 6. Appeals and other questions requiring action by the Executive Council may be submitted individually to members in document form and the vote recorded in the same manner and with the same effect as hereinbefore provided.

Sec. 7. The E. ecutive Council shall have jurisdiction over and shall decide all appeals against a decision or an action of a subordinate union; all disputes or differences arising between subordinate unions; controversies and differences

between employers and subordinate unions.

Sac. 8. The Executive Council shall have authority to interpret and enforce contracts and agreements; interpret and construe the laws of the international Union and subordinate unions; and it shall have authority to enforce such interpretation and construction unless and until reversed on appeal as herein provided. It shall have the power and jurisdiction to decide all questions properly brought before it relating to the business and affairs of the union. It shall have such further powers and perform such other duties as may be set forth in the constitution and laws.

Sec. 9. Any member affected by a decision or action of the Executive Council, or any aggrieved subordinate union, shall have the right to appeal to the next succeeding convention of

the International Typographical Union.

# REPRESENTATIVES

Sec. 10. It shall be the duty of each representative to correspond with or visit such town or places where no union exists and there are printers or allied craffismen at work, as the President may direct, with a view to encouraging them to embrace unionism. He shall examine the books and business methods of such unions as he may visit, and shall recommend to said unions any changes that will tend to safeguard the fluences or facilitate the business of the union: Provided, however, That no international representative shall take charge of the affairs of a local union until so requested by said subordinate union.

# ARTICLE IX-ELECTION OF INTERNATIONAL OFFICERS

# QUALIFICATION OF CANDIDATES

SECTION 1. The qualification of candidates for office in the linternational Typographical Union shall be as follows:

1. Membership in the International Union and in continuous good standing for at least one year previous to making a declaration as candidate and previous to the acceptance of the nomination ("continuous good standing" means that a member must have paid his dues and assessments as provided by International law), and freedom from delinquency of any nature to the International or subordinate unions. 2. For Third, Vice-President, membership as a mailer.

# DECLARATION OF CANDIDACY

SEC. 2. Members of subordinate unions who desire to be candidates for office in the International Typographical Union shall announce such candidacy in the December and January issues of The Typographical Journal preceding the date fixed by law for the making of nominations. Candidates when making such announcements shall accompany the same with a certificate signed by the president and secretary of the local union to which aper belong, and bearing the seal of the standing for one year previous to November 1 of that year, union, certifying that they have been in continuous good standing for one year previous to November of that year. Announcements shall not exceed in space four lines of aixpoint type the full width of one column of The Typographical Journal, and shall contain the following:

| Continuous | ac  | tiv | e | m | eı | mi | be | t | 1 | 0 | r. |     |       |   |    |   |   |    |    |  |   |   | .y | 81 | AT  | 3 |
|------------|-----|-----|---|---|----|----|----|---|---|---|----|-----|-------|---|----|---|---|----|----|--|---|---|----|----|-----|---|
| Member of  |     |     |   |   |    |    |    |   |   |   |    |     | <br>U | n | io | n | 1 | ic | ). |  | * |   |    | *  | 6 1 |   |
| Candidate  | for |     |   |   |    |    |    |   |   |   |    | . , |       |   |    |   |   |    |    |  |   | • |    |    |     | 0 |
| Name       |     |     |   |   |    |    |    |   |   |   |    |     |       |   |    |   |   |    |    |  |   |   |    |    |     |   |

These announcements shall be properly classified under the heading of "Candidates for International Offices," and shall be further classified under appropriate sub-headings designating the office for which the member is a candidate, and this publication shall be an official notification to the officers and members of subordinate unions of the candidacy of such members for the office designated.

# NOMINATION OF CANDIDATES

"Sec. 3. Subordinate unions may nominate at the regular meeting in February' one candidate for each elective office. Nominations shall be saade by ballot and the names of all members who have announced their candidacy as is provided in the preceding section shall appear thereon. Candidates for President, First Vice-President and Secretary-Trassure who receive a majority of the votes cast shall be rec. led.as having received the endorsement of the union. Candidates for other offices who receive the highest number of votes shall be recorded as having received the endorsement of the union. It

shall be the duty of one of the secretaries of each subordinate union taking action to immediately notify the Secretary Tressurer, who is directed to close nominations at 12 x (noon), on March 8, those received after that time to be disregarded, the Secretary Tressurer shall publish in the April uses of The Tspost aphical Journal a list of nominees and nominators, declaring the five candidates for each office who have been supported by the largest number of unions as nominees—the affects for which they were respectively named. Provided, That candidates for the office of President, First Vale President and Secretary Tressurer shall have at least fifty endorsers, and tall other candidates shall have at least twenty endorsers.

1º Within forts eight hours after closing of nominations, the Secretary I teasurer shall mail notices of their nominations to all eligible candidates, and each candidate so notified skall on or before 12 st (noon) of March 25, inform said secretary freesurer of his acceptance of the agrain aton. I ach a milidate, when sending notice of acceptance of a nomination, shall also file with the Secretary Treasurer a statement that he or she has been in continuous road standing for one star previous to March I of that year, and said statement shall be attested by the president and secretary of the local union, with the seal of the union attached. On fail are to a mply with this law it shall be the duty of the Secrelats-I've ster to strike the delinquent's name from the list, inserting in hen thereof the name of the next chathle could. date. He shall also forward with its to epiance of the normnation if he desires to use the space allotted him, his letter for the April issue of the Typographical Journal provided for in the following section.

See 5 Candidates who have received the fequisite number of endorsements and who have filed their acceptance of the nomination for office Sought shall be entitled to space in the April and May issues of the Typographical footnal for the publication of reasons and arguments in support of their cannot be seen to be presentably prepared by the confinition of the seen of the second state of the second state of the second se

dates, and no condidate that room, of son tion the issue of I my other, they more of primary marile in his behalf, unless signed by the candidate of three members in and standing of the International Expertaplical Union Provided, That the letters of candidates for President, First Vice-President, Second Vice President, Third Vice President, and Secretary-I reasofer shall not exceed two thousand wirds such liGers from candidates for other of ces shall not exceed three himfurther. That the letters of all died wad death Privade and they shall be subject to and governed by subjection c. section 4/ article vin." the bylans It shell be the done of the Sections Resource to propogly arrange the letters of all candidates under a general heading of "Political Section." and sub-classify them under appropriate heading designating the office and the condidate in whose inferest the publication is made. All such giatter shall be set in type uniform in size and style with the general body pe of The Type diaphical Journal. The "Political Section" herein provided for shall appear in The Typographical Journal for the months of-April and May preceding the election.

It is mendatory that each and every member comply with the following rules regarding political activity in any International Typographical Union election or referendam:

- (a) When groups of members run for office under a named group or pointical party, any claims or allegations made by such group or party on behalf of such candidates shall be saye the printed names or written signatures (not less than infect of the sponsors or officers of the group or party. The candidates supported by such group or party shall share with the sponsors or officers issuing same, the responsibility for such claims or allegations.
- (6) No untrue statements may be made in political literature, nor shall any conclusions be published which impugathe motives of candidates. The facts from which conclusions are drawn shall be clearly stated so feeders can compare and also draw their own conclusions. Any such group or political party shall print a platform or statement of ats aims and purposes so the members will know what to expect after the circum. All members should realize that scurrious references stander or abel react on the reputation of the union. To be the elect the best officers should be the atm of each members of the totion.
- (c) No political group or party may be financed by other than mer, ber, of the union and a correct and complete list of d first must be kept by the person of persons designated to licept so, h donations. Said list off done is shall be n de casaligate for the kims purposes to any time committee its association of this security accommander to the association of this security acceptance of noinesy of indirect man, as help of any kind for political purposes from other than remitters of the union is prohibited both as to candidates and others acting in their behalf or working for their election. Any individual member financing the issuance of indirect political statements. It is against any condicating or candidates are proposed to the political political statements.
- - Sec. 6. The Secretary Treasurer shall, as soon as possible after the foregoing provisions have been complied with, preture and have printed billion containing the names of an indidates who have qualified. (a) Names shall be arranged

according to the number of nominations received. (b) When a tie occurs the name shall be drawn by lot. (c) Each candidate's name by the name and number of the union of which candidate is a member. (d) The ballot shall bear the official seal of the International Typographical Union. (e) The ballot shall be so constructed that a voter can with ease designate his or her choice by making cross (X) opposite the names of candidates for whom he or she desires to record his or her vote. (f) The International Secretary-Treasurer shall supply to secretaries of subordinate unions a sufficient number of ballots, free of cost, that all members of each subordinate union shall have opportunity to vote. (g) He shall also have prepared and supply to local secretaries one envelope of proper size to carry the tally sheets. (h) He shall also have prepared and supply to local secretaries one envelope of proper size to carry the tally sheet, which envelops shall be addressed to the International Secretary-Treasurer. (i) The return envelope shall have printed thereon in plain type the following words: "This envelope contains only election returns from Typographical Union No. —." (j) The necessary election supplies provided for herein shall be used at such elections except those issued by the International Secretary-Treasurer in accordance herewith.

SEC. 7. In event of death of any candidate for President, Secretary-Treasurer, First Vice-President, Second Vice-President, of Third Vice-President regularly announced in the December of January issues of The Journal, or in the event of a vacancy because of death of any candidate on the offi-cial ballot for the above-mention offices, such vacancy may be filled by petition of fifty subordinate unions in the case of President, First Vice-President and Secretary-Treasurer, and twenty subordinate unions in the case of Second Vice-President and Third Vice-President; action by local unions to be taken at regular meetings or special meetings called for the purpose; and the Secretary-Treasurer shall be notified immediately as provided in section 3, governing nominations for office, at the union meetings held in February. The notifications from subordinate unions of their nomination of a candidate or candidates by petition under this section must be in the Hands of the Secretary-Treasurer not later than 12. M. (noon) the first Wednesday of May preceding the election: Provided, Subordinate unions which appear as endorsers of one candidate eligible to a place on the official ballot shall not be eligible to petition on behalf of another candidate for the same office under the provisions of this section,

#### **ELECTIONS**

SEC. 8. Elections shall be held on the third Wednesday in May: Provided, That lucal unions may by law fix hours during which ballot boxes may be open for the purpose of voting at any time between midnight of the Tuesday preceding the ribird Wednesday in May and 12 noon the following Thursday. (a) Subordinate unions must provide opportunity for their members to cast their ballots in accordance with the election laws of the International Typographical Union. Pro-

vided, That in chapels of 10 or more where a member is to be off Wednesday he may procure his ballot no earlier than Tuesday at 8:00 A. M. and where he is to be off both Tuesday and Wednesday he may procure his ballot no earlier than Monday at 8:00 a. M. and place it in a sealed envelope containing a chapel seal on it and then personally deposit it in the official ballot box in the presence of a duly elected membe of the chapel election board as provided in sub-section "e" below: and Provided further. That where a member is to be off Monday, Tuesday and Wednesday he may procure his ballot no earlier than 8 A. M. on Friday morning preceding election, said ballot to be cast as hereinbefore provided. (b) Subordinate unions shall establish within their jurisdictions a voting place centrally located and easily accessible, to be known as the secretary's chapel and to be in charge of at least three members of the union, elected by the union, to be known as the election board of the subordinate union. Secretaries of subordinate unions shall not distribute official ballots to individual members in advance of the day of election except in the cases provided for in sub-section "a" above. Ballots shall be delivered only to the election board and to members authorized to receive same where necessary to take the vote in chapels. (c) Members not attached to any chapel shall cast their ballots in the secretary's chapel. Members in chapels of less than ten members may cast their ballots in the secretary's chapel or subordinate unions may regulate by law the method of taking the vote in chamis of less than ten members. (d) Each member entitled to vote shall be provided with a clear unmarked ballot and given full opportunity to privately mark and personally cast same in a scaled box provided by the union for that purpose. (e) In chapels with a membership of ten members or over the vote must be taken in chapels, tabulated by a board of not less than three members of the chapel elected by the chapel. Such board shall make resurn of the chapel vote, together with all used and unused ballots, to the election board of the subordinate union within twelve hours after the close of the poll, or within such longer period (not to exceed twenty-four hours) as is specified in local laws. Chapel election boards shall post in their respective chapels a duplicate of the return sheet sent to the local election board, (f) Local election boards shall post the total vote received by each candidate in their respective unions in a manuer that may be available to all interested members. (g A copy of the returns made to the Board of Electors shall be preserved in the records of the subordinate union. (h) The accredited representatives of any candidate for an international office shall be admitted to the polls of any subordinate union, either printers or mailers, and shall upon demand be furnished with a copy of the list of voters. They shall be allowed to check the list as the votes are cast, to observe the method and manner of voting and casting the ballots and shall be allowed to be present and observe the counting and tabulating of the votes. Such representauves shall be members in good standing of the International Typographical Union.

SEC. 9. Any subordinate union refusing or neglecting to hold an election as required by this law shall be disciplined

as the Executive Council may direct. Sec. 10. Local unions are instructed that, in canvassing the returns of their members, no votes shall be counted other than those recorded on official ballots furnished by the Secretary-Freasurer of the International Typographical Union.

Sec. 11. No member of a subordinate union shall be allowed to vote for local officers unless his or her card shall have been deposited with the secretary not less than thirty days immediately preceding said election and must be in good standing: Provided, That subordinate unions can require a longer length of membership, not to exceed ninety days, except where a local has been in existence a shorter period.

SEC. 12. All members residing at the Union Printers Home, constituting the Union Printers Home chapel, shall be permitted to vote in all International Union elections and referendums. At the April meeting of the Union Printers Home chapel nominations shall be made for six members to act as an election board, the vote for the said nominees to be taken within two weeks of said nominations. (Provided, however, That should the chape) at any time, or for any reason, fall to act as above provided; or should said chapel at any future date be dissolved or declared nonexistent, the Superintendent shall call a meeting of residents not later than May 1 preceding the International Union election to nominate candidates for such board of elections and set a date for its election.) The member receiving the highest vote shall be chairman of said board and make arrangements with the Superintendent for an adequate central polling place; notify the residents by placing notices on the bulletin boards of the date. time and place for voting of those residents physically able to repair to such central polling place to cast their ballots, and shall appoint three members of such duly elected board to canvass the hospitals and sanatorium to receive and record the votes of those members who, by reason of their illness or affliction, may be confined therein, to the end that no one may be deprived of the privilege of voting. If such confined member; through illness or affliction, is unable to mark his ballot, he may request the assistance of a member of the canvassing board, who shall thereupon read the complete list of candidates for each office, as they appear on the official ballot, and mark the ballot in the presence of another member of the election board according to the express wish of said fil or afflicted member, reading back to the elector the ballot as marked. At the close of the polls the entire board shall count the ballets and make the returns upon the tally sheets furnished by the International Secretary-Treasurer, and forward same in sealed envelopes, furnished for that purpose, to the International Board of Electors by registered mail. All sections of the bylaws governing the holding of any election, not in conflict with the foregoing, are to be followed. Payment for the services of such Home election board shall be made from Home funds, and be fixed by consultation between the

Superintendent and chapel chairman, but in no case less than \$6 nor more than the maximum scale of Colorado Springs Typographical Union No. 82 per day per member.

SEC. 13. The president and secretary of each subordinate union shall forward to the International Board of Electors within forty-eight hours a true copy of the vote of the subordinate union, such returns to be made under the official seal of the union: Provided, That unions of over 2,000 members may make return within seventy-two hours after the close of balloting. Such urns shall be made upon tally sheets furnished by the International Secretary-Treasurer and be forwarded in envelopes likewise furnished. Nothing other than the return of the vote by the local union shall be enclosed in such envelope.

SEC. 14. Ten days prior to an election, the Secretary-Treasurer shall send to each subordinate union official return sheets in duplicate and an official election return envelope, to be addressed to the "Board of Electors, International Typogra hical Union, Lock Box —, Indianapolis, Indiana."

SEC. 15. It shall be the duty of the International President and Secretary-Treasurer to secure, prior to the date of any International election, a postoffice lock box to which the returns shall be mailed. The President and Secretary-Treasurer, or their representatives, shall take the returns from the lock box each day and deposit them in a securely locked box at headquarters, making a check sheet of each envelope received.

SEC. 16. The board of electors shall be composed of one representative of each of the two candidates for President and Secretary-Treasurer having received the greatest numbr of endorsements and the candidate for First Vice-President having received the greatest number of endorsements, such representatives to be certified to the Executive Council.

SEC. 17. It shall be the duty of the board of electors to meet on the tenth day following an International election, organize by electing a chairman and in the presence of the International President and Secretary-Treasurer, open the box containing the election returns from subordinate unions, open all returns and notify by wire local unions whose returns have not arrived or in which minor irregularities or discrepancies occur, and begin the canvass of the vote. Upon completion of such canvass, the board of electors shall submit a notarized report to the International President and Secretary.

SEC. 18. The board of electors as constituted by this article shall have custody of the returns during the period of the canvass and may designate the manner in which such returns are to be preserved following completion of the canvass and

the period of preservation.

SEC. 19. The board of electors shall not count votes cast by subordinate unions that have not complied with the provisions of section 22, subsection (2) of this article. (a) The vote of unions shall be counted if they are received before the canvass of the vote is completed. (b) The board of electors shall make a distinct announcement of the successful candi-

dates, who shall assume office beginning on the date provided in the constitution, section 3, article v. (c) Any candidate for a place on the Executive Council shall be entitled to have one representative present at all sessions of the board of electors during the time returns are being canvassed and its report formulated.

Sec. 20. The report of the board of electors shall be printed

in detail in The Typographical Journal.

Sec. 21. Candidates for President, First Vice-President, Second Vice-President, Third Vice-President and Secretary-Treasurer who receive a majority of all votes cast shall be declared elected. For all other offices candidates who receive a plurality of all votes cast shall be declared elected. In the event no candidate for President, First Vice-President, Second Vice-President, Third Vice-President or Secretary-Treasurer receives the majority necessary to elect on the first ballot, the board of electors shall direct the Secretary-Treasurer to prepare and issue ballots containing the names of the two candidates who receive the largest number: of votes and subordinate unions shall hold an election on the fourth Wednesday in June, the election to be conducted in the same manner and the result to be certified in the same way as obtained in the preceding election. When there is a tie vote between candidates for any office other than President, First Vice-President, Second Vice-President, Third Vice-President and Secretary-Treasurer the decision shall be by lot in a manner to be determined by the tied candidates.

#### VOTERS, QUALIFICATIONS AND RESTRICTIONS

SEC. 22. The qualifications of voters shall be; (1) Possession of a current working cafd, and freedom from delinquency of any nature to the International or subordinate, unions. (2) Membership in a subordinate union which has transmitted to the Secretary-Treasurer of the I.T.U. March dues and assessments on or before May 20. The same method shall prevail for corresponding months preceding other elections or referendums. (3) Members working in localities in which no local union exists, and who are in no way indebted to the International Typographical Union, shall have the same rights as other members on all maiters submitted to the referendum. The Secretary-Treasurer shall see that such members are given the opportunity to exercise this right.

SEC. 23. Every member of the International Typographical Union shall be entitled to a vote for all officers, except

as otherwise provided.

SEC. 24. Every member of the International Typographical Union in good standing shall be entitled to vote on all propositions submitted to the referendum.

SEC 25. Subordinate unions have not the right to require that their members shall hold regular situations before they shall be entitled to vote or hold office.

SEC. 26. Any candidate for any office within the gift of the International Union or any subordinate union who shall pay, or offer to pay the dues and assessments of any member of the union for the purpose of making such member eligible to vote, shall be deemed guilty of bribery and shall be punished as the international or local union may direct.

SEC. 27. Members shall be allowed to vote but once at an election of International officials: Provided, Thai if those charged with the conduct of the election by a subordinate union, or any of them, have reasons to believe that a member has voted under the jurisdiction of a sister union, or any member challenges his right to vote on account of his having exercised that right previously, he shall be permitted to vote on signing the following: "I hereby declaration my honor that have not voted for International officers at this election, and make this declaration with a full knowledge of the fact that his representation renders me liable to discipline.

#### TAMPERING WITH ELECTIONS

SEC. 28. Any member convicted of misrepresenting returns, altering, mutilating or destroying deposited ballots, or voting fraudulently or illegally, or of intimidating others by threats or otherwise interfering with a member in the exercise of his or her right to cast his or her ballot, shall be punished as the local union may determine; in no case shall the penalty be less than a fine of \$25 and the member so convicted shall forever be disqualified for either elective or appointive office within the jurisdiction of the International Typographical Union. It is further provided that for the purpose of preserving the purity of elections and integrity of this law the Executive Council, all other laws or parts of laws to the contrary notwithstanding, is empowered to proceed against an alleged offender and mete out punishment as in the opinion of a majority of the council is just apd equitable.

#### DELEGATES AND ALTERNATES .

SEC. 29. No member of a subordinate union shall be eligible to election as delegate or alternate to the International convention unless be or she shall have been a resident member of and in good standing in such subordinate union at least six months immediately preceding the date on which said election's held. Subordinate unions may require that, to qualify for nomination and election, candidates for the office of delegate or alternate must have attended a specified number (not more than a majority) of the regular local union meetings held during the 12-month period immediately preceding the date set by the local union for nomination of delegates and alternates, but this latter qualification shall not apply to the delegate or delegates, alternate or alternates of a union organized within a less period that six months or to members employed in union work.

SRC. 30. No member of a subordinate union shall be allowed to vote for delegate to the International Typographical Union convention unless his or her card shall have been deposited with the secretary not less than thirty days immediately preceding said election. Subordinate unions have not the right

to extend the period fixed by this section.

Sec. 31. The election of delegates and alternates to the International Typographical Union convention shall be held on the third Wednesday in May preceding the meeting of the convention in accordance with section 8, article ix, subsection (d) bylaws. In case where a tie vote for delegates or alternates is declared another election shall be immediately ordered by the local officers: Provided, Candidates for delegates or alternates without opposition shall be declared elected by local unions, as of the third Wednesday in May elected by the formality of an election and the local union shall proceed immediately, to determine the order in which the alternates shall fill any vacancies which may occur.

Sec. 32. The number of delegates to which a union shall be entitled must be determined by the average membership on which it paid per capita-tax during the twelve months imme-

diately preceding the issuance of the call.

Sec. 33. At the same time delegates to the International Typographical Union convention are elected, subordinate unions shall elect the same number of alternates, who in case of death or inability of said delegates to act, shall be entitled to the full power and privileges accorded delegates.

SEC. 34. The delegates chosen to attend the convention of this union shall hold office until the election of their successors and in case of vacancies subordinate unions are authorized to at once proceed to elect a delegate or delegates as successor or successors. Each delegate must be furnished (for presentation to this union) with a certificate of election, duly authenticated by the seal of his subordinate union, according to the following form, viz:

To the International Typographical Union of North America:

.. being qualified WE HEREBY CERTIFY THAT ..... as required by section 29 article ix, of the International bylaws, was legally elected delegate from this union to the International Typographical Union convention, on the...

.... 19.... his term of office to begin on the first day of the next convention of the said union to be held at ... 

..... President. Secretary. [SEAL]

..... Delegate's Signature.

Sec. 35. Return (under scal) of such delegates elect and alternates must be mailed to the Secretary-Treasurer within forty-eight hours after election: Provided, That unions of over 2,000 members may make return within seventy-two hours after the close of balloting.

Sec. 36. The expense of said delegates to the convention of this union shall be defrayed by the subordinate unions

they respectively represent.

SEC. 37. The Secretary-Treasurer, before the meeting of the Irternational convention, shall prepare a roll of the delegates-elect, and place thereon the names of those persons, and such persons only, as shall be shown to have been elected in accordance with the laws of the International Union and of subordinate unions as certified by secretaries of subordinate unions. In cases of contests, the delegate having credentials in proper form shall be seated, but the names of the parties claiming election shall be submitted to the International convention for final decision on the contest or protest. Where unions have not complied with the laws of the International Union the names of delegates from such unions shall also be submitted.

Sec. 38.-No delegates shall be entitled to vote in the convention of the International Union whose union has not previously paid over to the proper officers of the International Typographical Union the per capita tax and all indebtedness of his union. No member of a subordinate union shall be eligible to election as delegate whose wearing apparel does not bear at least five union labels.

SBC. 39. Any subordinate union may, by such vote of members present as local bylaws provide (which shall not be less than three-fourths majority), instruct its delegates to a convention of the international Typographical Union at any regular meeting after election of delegates and previous to said convention: Provided, Such instruction has been presented in writing and read at a previous meeting.

#### ARTICLE X-FISCAL YEAR

SECTION 1. The fiscal year of this union shall commence on the twenty-first day of May, and end on the twentieth day of May in each year.

#### ARTICLE XI-FUNDS AND REVENUE

SECTION 1. The Secretary-Treasurer shall prepare and sell to subordinate unions, through the proper officers, at a face value equal to the mouthly per capita tax of the international Typographical Union, adhesive stamps, and working cards with stamps of equal value printed thereon, to be known as International due stamps and working cards.

Sec. 2. The Executive Council shall secure the funds of the International Typographical Union in excess of menthly requirements or emergency needs by investing surplus reserves in bonds of the United States, said investments to be made by the President and Secretary-Treasurer under the order of and with the approval of the Baecutive Council.

SEC. 3. The moneys of this union used for defensive purposes shall be drawn on only for the following objects: For the sustaining of legal strikes or lockouts of subordinate or affiliated unions; for the payment of expenses of officers or representatives of this union when engaged in the settlement of disputes or the formation of new unions, and for such other purposes, relating strictly to the business of this international Union, as the Executive Council may deem wise or necessary.

Sec. 4. Whenever a union which has complied with all laws shall have within its jurisdiction a lockout, strike or other trouble of like nature, it shall be entitled to such assistance as the Executive Council shall deem necessary, or as shall be directed by the International Union laws to meet such cases.

## ARTICLE XII-HONORABLE "VITHDRAWAL CARDS

Section 1. Members in good standing who cease to work at the business shall be entitled to the withdrawal card issued by this union, which exempts them from the payment of all dues, and deprives them of all offices and benefits whatsoever. Application for withdrawal cards will be granted or denied by vote of the local union of which applicant is a member. An honorable withdrawal card shall not be issued unless applicant shall have been fully informed in writing by an officer of the local union as to any rights he may have under section 6, article vii, and section 1, article xviii, bylaws.

Sec. 2. The withdrawal card shall contain on its obverse side the following words:

# International Typographical Union.

holder hereof, was at this day and date a member in good

notider nereor, was at this day and date a memoer in good standing of the International Typographical Union, and at his request is granted this Honorable Withdrawal Card, which exempts him from all dues or taxes whatsoever, and acquits him of all rights to benefits of any kind whatsoever in said organization; and he is required to deposit same with th: croper officer before again accepting work at the printing trade, and he promises not to violate any trade requirement of the said International Typographical Union, or its subordinate bodies while holding this card. The holder of this withdrawal card understands that it ter-

minates his membership, and that his continuous membership in the International Typographical Union will date from the time of its deposit in and acceptance by a subordinate union.

The holder of this card may, at his option, at any time within sixteen (16) months from the date hereon, deposit this card and retain continuous membership in the International Typographical Union by payment of all accumulated dues and assessments due the subordinate union issuing this card

|               | hands and seal of             | Unio |
|---------------|-------------------------------|------|
| Witness our   | A - down and wear first above |      |
| No            |                               | -    |
|               | Secret                        | ary. |
|               | Арри                          | Cam. |
| Countersigned | SecTreas                      | I.T. |

The reverse of the card shall contain the following, which must be subscribed to when the holder deposits same for the purpose of resuming active membership.

I hereby affirm, on my honor, that since receiving this card I have not been employed on work over which the International Typographical Union claims jurisdiction; that I have not worked at another trade or calling of which there is a regularly organized union without becoming a member of the union of the latter trade, and abiding by its regulations, so far as they are consistent with the laws of the International Typographical Union; that I have not performed any work detrimental to the interests of the International Typographical Union, or any union subordinate thereto; that I have not been guilty of violating any regulation of the International Typographical Union, or any union subordinate thereto; and this declaration is made with full knowledge that any willful missrepresentation renders me liable to discipline.

.Signature.

SEC. 3. Immediately on returning to work at the business, the holder of a withdrawal card shall denosit the same with a subordinate union of the International Typographical Union, subject to the approval of the authorities issuing it, and if of such deposit it shall be found he has violated no laws or rules of the International Typographical Union, he shall be placed on the active list. Withdrawal cards shall not be accepted in a jurisdiction where there is a ban on traveling eards except in locals where said withdrawal card had been issued. A fee of \$10.00 shall be charged the member depositing the withdrawal card who does not take advantage of retaining continuous membership, said monies to be credited to the I.T.U. General Fund.

Sec. 4. A member performing any work over which the I.T.U. has jurisdiction may not be issued an honorable withdrawal card.

SEC. 5. When the holder of an honorable withdrawal card loses the same he can only receive a duplicate thereof by applying to the Secretary-Treasurer of the International Typographical Union, who shall issue such duplicate on the payment of \$1 after sufficient time has elapsed for an investigation to be made. Duplicates shall be furnished from a series separate from the regular honorable withdrawal cards and have printed thereon the words "Duplicate Card." No duplicate for a lost honorable withdrawal card shall be issued except with the consent of the union issuing the original card.

#### ARTICLE XIII-IMPEACHMENT

SECTION 1. In the event of the suspension from his official position of any elected International officer, by the President or his impeachment by the Executive Council, the officer so uspended or impeached shall be furnished with a detailed statement of the reason for such action. A trial board composed of the presidents of the five subordinate unions which have paid per capita tax upon the largest number of members during the fiscal year preceding such suspension or impeach-

ment shall be directed to proceed to the headquarters city and shall constitute a trial board to try such officer upon the charges presented. The decision of said trial board shall be rendered within thirty days from date of suspension or impeachment and shall be the decision of this international Union, subject to appeal to the convention next following.

Sec. 2. Any member of the Union Printers Home corporation may be impeached for ineligibility or for the commission of an indictable offense, or for violation or willful disregard of his duties of membership. When charges, based upon any one or more of the above enumerated grounds, have been made to the Executive Council against any member of the corporation, and, after trial, have been proven, the Executive Council shall thereupon enter an order of impeachment, which shall be deemed an order of the international Typographical Union, and the Executive Council shall forthwith thereafter certify such order to the Secretary of the Union Printers Home corporation, who shall take such steps as may be proper under the bylaws of that corporation to procure the resignation of the member so impeached; but if the member so impeached shall, upon being so requested, fail or refuse to resign, the Secretary shall thereupon take such further action in the premises as may be proper under the bylaws of that corporation to enforce the expulsion of the member so impeached. A certificate of impeachment from the Executive Council shall be conclusive upon the person named therein as to his ineligibility to membership in the corporation: Provided, Nothing herein contained shall restrict the right or power of the corporation of the Union Printers Home to expel any member, on proper procedure, without the intervention of the Executive Council.

## ARTICLE XIV-JURISDICTION

SECTION L. The jurisdiction of subordinate unions chartered by the International Typographical Union of North America shall cover only the corporate limits of the city or town named in the charter. A subordinate union may receive applications for membership from qualified applicants located within a reasonable distance in unorganized territory.

Sec. 2. The Executive Council of the International Typographical Union shall have power to extend the jurisdiction of subordinate unions to adjoining cities and towns where no union exists, and which are not included in the corporate limits of the petitioning union, for the purpose of enforcing the laws of the International and subordinate unions: Provided. That the petitioning union, makes satisfactory showing of its ability to properly supervise the additional territory and makes satisfactory contracts therein.

Sec. 3. A subordinate union may be empowered by the Executive Council to declare jurisdiction over ships printers, at a scale and with rules consistent with the work being performed, where the subordinate union can convince the Executive Council the granting of such power will benefit the International Typographical Union. This power granted to a subordinate union shall be over those ships using as their home port the city in which said subordinate union holds jurisdiction.

SEC. 4. A subordinate union has no control over men regulariy enlisted in the army or navy of the United States or, British Provinces who may be detailed in the signal service or 10 work at the business at military headquarters or posts.

SEC. 5. Where a member of a local union under the jurisdiction of the International Union works at another trade or calling of which there is a regularly organized union, such member shall be required to join the union of the latter, trade or calling, and abide by its regulations, so far as they are consistent with the laws of the International Union.

. Sec. 6. When the International officers believe it will be to the interest of the organization, they shall advertise any unfair publication in such paper or papers as reach those who

can be influenced to aid in making it fair.

Sec. 7. All classes of mailing, regardless of whether done by hand or power, are part of the mailing trade, and are under the jurisdiction of the International Typographical Union.

SEC. 8. Any method or process that substitutes or replaces traditional composing room or mailing room work, regardless of the material or equipment used, is under the jurisdiction

of the International Typographical Union.

SEC. 9. Subordinate unions are directed to keep alert to the fact that in relinquishing jurisdiction over newspaper writers the International Typographical Union did not relinquish such jurisdiction over labor publications. The A. P. of L. was notified: "It will be noted that the only jurisdiction surrendered by the above is that over newspaper writers, this term being understood to mean only writers who gather news for newspapers of general circulation in the community is which published."

#### ARTICLE XV-LABEL

SECTION 1. The labels owned and furnished by the International Typographical Union, and described in its constitution, shall be transmitted to local unions on receipt by the Secretary-Treasurer of this union of a sum of money not exceeding 10 per cent above the actual cost of production and distribution of said labels. Local unions shall have the right to say whether labels ordered them shall be machine cast or electrotyped. Said labels shell remain the property of the International Typographical Union. No local union shall be permitted to grant the label to offices outside the corporate limits of the city or town named in its charter, without first securing an extension of jurisdiction from the Executive Council. Where a local union has been authorized by the Executive Council to extend its jurisdiction to include other cities or towns it may, with approval of the Executive Council, secure typographical labels with the name of each of such incorporated cities or towns for exclusive use by printing establishments in the city or town for which such labels are secured to be used under the conditions established for the use of the label by the particular local union having jurisdiction, and in accordance with the laws of the international Union governing the use of the Typographical Union label.

- Sec. 2. In cities where an organization of mailers exists, or in localities where mailers' organizations have jurisdiction. it is imperatively ordered that no typographical label shall be issued without consultation with the mailers' local having jurisdiction over that locality. Typographical unions shall notify in writing the nearest mulers' local when organizational work is undertaken in shops where mailing work is
  - Sec. 3. Subordinate unions shall not allow the typographalso performed. ical label to be used upon any work where the composition is performed by any person who is not an active member of the International Typographical Union. In offices where the proprietor, or proprietors, perform composing room work the label shall not be used unless at least one journeyman member aside from the proprietor is employed at the scale and under union rules and regulations on work that bears the label. In localities where the Typographical Union Label is used it shall be the duty of typographical unions to exert every effort to organize mailers.
    - Sec. 4. In jurisdictions where a charter has been revoked and the Executive Council believes it to be to the best interests of members not directly responsible for the local conditions which caused the loss of the charter, it shall be optional as to whether or not the Council shall permit the continued use of the union lateloby specific shops which satisfy the Executive Council as to the continuance and maintenance of union standards in such shops. Under such circumstances the use of the label in the area shall be under whatever regulations are determined by the Executive Council to be necessary for the protection of the memberships

SEC. 5. The label shall not be placed on work sub-contracted by label offices from non-label offices.

Sec. 6. Where the label is used, the label license number of, or the imprint of the firm actually doing the work, and not that of the concern for which the work is done, must be used.

Sec. 7. Subordinate unions are hereby instructed to bring before their respective legislatures a law protecting union

labels, if such protection is not already available.

Sec. 8. In localities where a local Allied Printing Trades Council has been formed, Typographical and Mailer unions shall, in good faith, advance the use of the Allied label: Provided, That where other unions have issued any union label other than the Allied label to the detriment of Typographical or Mailer unions, the Executive Council of the International Typographical Union may authorize use of the Typographical Union label; and provided further, That where local Allied Printing Trades Councils fail to function properly or legally the use of the Typographical label may be so authorized. In localities where the offset lithographic process is being used the Executive Council may authorize the use of the Typographical Union label to protect the jurisdiction and interests of the International Typographical Union.

## ARTICLE XVI—MEMBERSHIP APPLICANTS—NEW

Section 1. No union shall admit as a member any person who comes from a place where a union existed at the time of his leaving, unless he can produce a duly attested traveling card from said union: Provided, That any applicant for membership may be admitted if no objection is raised after the union from whose jurisdiction the applicant comes has been communicated with, and after publication of the application in Fhe Typographical Journal as required by law. Any subordinate union violating this law shall be liable to a fine of \$25.

SEC: 2: All applications for membership shall be filed in duplicage on forms provided by the Secretary-Treasurer of the International Typographical Union. Secretaries of subordinate unions are required to furnish the Secretary-Treasurer one copy of each application. Local unions shall require applicants to furnish adequate evidence of the date of birth. The names of all applicants for admission who have been known to or are suspected of having worked under the jurisdiction of a sister union or about whose antecedents there is the least doubt, shall be published in The Typographical Journal, and no such applicant shall be received into membership until twenty-six days after the date of such publication. The requirements of publication in The Typographical Journal shall not be operative during the progress of a strike, or during the life of amnesty declared in accordance with the requirements of the laws of this union.

SEC. 3. (a) No person shall be admitted to membership. in a subordinate union who has not served an apprenticeship of at least six years, except that upon request of a subordinate union an applicant who has established competency and has met the educational requirements of the ITU Bureau of Education may, with the consent of the President of the International Typographical Union, be admitted as otherwise herein provided. All applicants for membership shall be required to pass final test as prescribed by International Typographical Union Bureau of Education as to competency before admission. Should, applicant fail to pass such examination satisfactorily he shall be required by local union to complete the International Typographical Union Course in Printing. The foregoing applies to applicants trained in the craft specified in section 1, article.i., constitution, as "printer." (b) All applicants for membership shall be required to subscribe to and study the ITU Lessons in Unionism, and within 90 days from date of initiation local union must certify to the International Typographical Union Bureau of Education that applicant has satisfactorily passed an examination on this unit of lessons conducted by the local examining committee, (c)

No person who is not a member of the International Typographical Union shall be granted a card as a machine tender unless he has served an apprenticeship of at least six years as a machinist or machine tender. Except that the local union, the employer and the Bureau of Education may approve earlier admittance of applicants under this section. (d) The same rigid examination as to the competency and physical fitness of the applicant shall be made by a committee of the local union as is made with respect to the competency and physical fitness of apprentices transferred to ourneyman membership, and local unions should, to the appropriate extent, require such applicants to graduate in the International Typographical Lessons in Printing. (e) The examination blanks and the outline of the competency test and agreement forms shall be furnished to subordinate unions upon request by the Bureau of Education of the International Typographical Union. The physical examination shall be by a registered physician on blanks furnished by the International Typographical Union. (f) Where the International Typographical Union takes jurisdiction over work of "other skilled employes" as provided in section 1, article i, of the constitution, their competency and fitness for membership shall be determined by the Bureau of Education and the period required to establish such competency and fitness shall be determined by the Executive Council of the International Typographical Union. (g) Mailer applicants who have not served a regular apprenticeship may be admitted with less than six years' training upon approval by the local union when the applicant is to be employed on journeyman work at the journeyman scale under circumstances deemed an emergency by the local union,

Sec. 4. When an applicant is elected to membership in a subordinate union, and leaves the jurisdiction of said union before being obligated, the obligation may be administered by any other subordinate union upon presentation of property certified credentials providing the obligating union will accept the responsibility of examining the applicant on the Trade Unionism Unit of the Lessons in Printing and, after satisfactorily passing such an examination will submit certification to that effect to the Bureau of Education as provided for in about 3, article xvi, bylaws. The secretary of the union obligating the applicant shall notify the secretary of the union electing, and he shall then remit the registration fee to the Secretary-Treasurer of the International Typographical Union in regular form and issue a traveling card to the person so

SEC. 5. Where there is not a sufficient number of applicants obligated. employed to secure a charter, those applicants may file their applications with a nearby union of their craft in the manner provided in section 2 of this article. In jurisdictions where only local typographical unions are established, mailer applicants may submit their applications through the local typographical union. In such instances applicants, with regard to competency and fitness for membership, shall be given teles and passed upon by the I.T.U. Bureau of Education in the manner prescribed in section 3, article xvi, I.T.U. bylaws for "other skilled employes" and may retain membership in such local typographical union until such a time as a local union of their particular craft is organized: Provided, Where an organization campaign is being conducted by the International Union, the International registration fee may be waived by the Executive Council in instances where competent applicants in sufficient number to issue a charter make application for membership: Provided, further, Nothing in this section shall be construed as denying the right of a member to work in unorganized territory and pay his duet and assessments directly to the International Secretary-Treasurer.

SEC. 6. Persons eligible for membership who are located in a state or province, where restrictive laws present local unions from accepting applications for membership may, with the approval of the Executive Council, apply directly to the International Typographical Union for membership, paying such initiation fee as may be required in addition to the registration fees provided in section 11, article xvi, bylaws. Such applications for membership shall be approved or disapproved by the Executive Council, after the provisions of sections 2 and 3, article xvi, have been followed so far as they may apply, and after local unions from whose jurisdiction such applications may come have waived objection to admission. Applicants admitted by the Executive Council under this section shall receive traveling cards from the International Typographical Union and shall thereafter be governed by all laws relating to traveling cards.

SEC. 7. For the purpose of effecting more complete organization of the industry, a subordinate union may issue a provisional membership in the local union to such applicants as are eligible to membership in the International Typographical Union. Provisional members shall pay such local dues as are set by the local union for such members and the local union shall provide them with monthly copies of The Typographical Journal. Provisional membership may be granted only to qualified applicants employed in printing establishments in the course of organization. Provisional members shall not be eligible to vote nor entitled to any local or international union benefits until such time as they become full members, or local union organization work of their printing. establishment is completed, after which they shall be liable to all dues, assessments and other obligations required of all active members of the International Union and their continuous membership qualifying them for international and local union benefits shall begin on that date.

SEC. 8. A candidate for membership can not be rejected solely on the ground of having served his apprenticeship in an "unfair" office, but a local union may impose such restrictions, in its discretion, as seem best for the general welfare, upon apprentices entering "unfair" offices within its jurisdiction, and such apprentices may not be permitted to enter the union until such restrictions are removed or special laws complied with.

Sec. 9. Subordinate unions shall have the power to grant or refuse an applicant for membership a permit to work while

his or her petition is pending. An applicant for membership, 58 working under permit pending final action on his or her case is entitled to work in union offices and receive the same recognition as members of the union: Provided, Local unions may establish regulations preventing applicants from holding priority previous to obligation as a journeyman: Provided, further, That subordinate unions have the power to revoke permits, pending final action, if it be known that applicants have sought employment contrary to the provisions of section 1. article vi, bylaws, or for any other reason-deemed expedient. When an applicant for membership or reinstatement is once rejected in a subordinate union he can not again make a new application in any union for a period of six months from the time of such rejection except by permission of the International President.

SEC. 10. An applicant (who is not otherwise disqualified) can not be rejected by a subordinate union while three-fourths of the members present at the meeting at which said application was acted on voted in favor of his admission, nor can an applicant be admitted to membership without having secured such three-fourths vote: Provided, Subordinate unions may adopt legislation that would admit or reject an applicant by three fourths vote of its executive committee subject to the appeal laws of the International Typographical Union: Provided further. This shall not apply when amnesty authority is in effect under the provisions of section 24, article xx, bylaws.

REGISTRATION FEES

Sec. 11. Subordinate unions shall collect in addition to the local initiation fee of the subordinate union a registration fee from each initiate as follows: Those less than 35 years of age. \$20; those 35 years of age or more, \$35, which will be transmitted to the International Union with the name of the initiate: Provided, Where organization campaigns are in operation by the International or subordinate unions, registration fees may be waived by the Executive Council. The Secretary-Treasurer shall credit receipts from registration fees to the general fund: Provided, further, That upon the first application for journeyman membership of any person holding an honorable discharge from the military of naval services of the United States or the Dominion of Canada and, provided application is made within ten years of said honorable discharge, the registration fee shall be only \$10 for such applicant.

# REINSTATEMENT OF SUSPENDED MEMBERS

Sec. 12. For reinstating members suspended for non-payment of dues the local union shall collect a reinstatement fee of \$25 and such local and International Typographical Union dues and assessments as were due at the time of suspension, together with such International Union per capita tax and assessments as shall have accrued to the time of reinstatement; and the secretary of the local union shall transmit to the Secretary-Treasurer of the International Union, properly segregated by months, all International Union dues and assessments collected by such subordinate union, together with \$10 of the reinstatement fee. Members suspended for nonpayment of dues while in possession of a traveling card may be reinstated by the Secretary-Treasurer of the International Typographical Union, if such members are not located within the jurisdiction of a local union, upon payment of a reinstatement fee of \$10 and accumulated dues and assessments as herein provided.

SEC. 13. A member who does not apply for reinstatement as provided in section 12 within a period of one year after date of suspension forfeits all rights to re-establish continuous membership and can rejoin only by making application

as a new member.

Sec. 14. A member who engages in mechanical work at his trade in the jurisdiction of a local union of his craft or who is guilty of conduct unbecoming a union member during the period of suspension can not be reinstated, but may make application as a new member.

SEC. 15. A member who reinstates continuous membership as provided in section 12 shall not be eligible to apply for admission to the Union Printers Home, or make application for the old age pension, within a period of one year after date of reinstatement; or if death occurs within a period of three months after date of reinstatement the member shall not be entitled to the mortuary benefit.

#### APPLICANTS FROM FOREIGN TYPOGRAPHICAL UNIONS

SEC. 16. The duly attested cards of all persons from foreign typographical unions, which unions will reciprocate in kind, shall be received by subordinate unions and their holders, if qualified and competent, admitted to membership on payment of the International Typographical Union registration fee. To qualify, the holder must show proof of aix years' trade-experience and pass a doctor's examination. He will be required to purchase and study the I.T.U. Lessons in Unionism and within 90 days from date of obligation (article zii, constitution) local union must certify to the International Tyopgraphical Union Bureau of Education that he satisfactorily passed the examination on this unit of lessons conducted by the local examining committee: Provided, That recipient unions may require that holders must pass language and competency tests before admission.

#### ARTICLE XVII-MEMORIAL DAY.

Section 1. The last Sunday in the month of May of each year shall be known as Typographical Union Memorial Day. Subordinate unions are urged to observe the same with subset exemonies and to decorate the graves of all departed union printers and mailers or members of the allied crafts and to hold such other services as may be appropriate to the occasion.

#### ARTICLE XVIII-OLD AGE PENSION AND MORTUARY BENEFIT OLD AGE PENSION

Section 1. Any member of the International Typographical Union who has reached the age of 60 years and having a continuous membership of twenty-five years immediately antedating time of application and who is unable to continue in orsecure sustaining employment because of age or disability may receive the sum of \$22 per week: Provided, That any. member having a continuous membership of twenty years. immediately antedating time of application, who, by reason or affliction, is totally incapacitated for work and whose application for admission to the Union Printers Home has been rejected by the trustees thereof for the reason that the Home is not able to care for persons so afflicted may receive the sum of \$22 per week subject to the provisions hereinafter set forth.

SEC. 2. Pensioners may engage in a pursuit inside or outside the trade, but shall not be eligible for the pension in any four-week pension period that money received as wages shall exceed the sum equivalent to eight shifts' pay at the scale of the union with which pensioner is aifiliated, or in any fiveweek pension period that money received as wages shall exceed the sum equivalent to ten shifts' pay at the scale of the union with which pensioner is affiliated: Provided, That the regulation of the working privilege to pensioners be rele-

gated to subordinate unions.

SEC. 3. Applications for pensions shall be made on blank forms prepared and furnished from International headquarters, which shall require answers to all questions, and the setting forth in full of all facts required to establish the right of applicant to the benefits of the pension. Such blank shall also include a form of certificate that the application has been read in full at a regular meeting of the local union or the executive committee of the local union of which the applicant is a member, and has been approved by a majority vote of those in attendance upon such meeting or by the executive committee of the local union. Said application shall be published in The Typographical Journal and should no objection be made within thirty days from the date of said publication, the member shall then be placed on the pension roll and payments of benefits start from date of approval by the local union or the executive committee of the local union on the application. Should objection be raised, the case shall be investigated by the Executive Council and the council shall act the con in such manner as in its judgment seems proper.

SEC. 4. Members resident of the Union Printers Home shall be eligible to make application for the pension while so resiing at that institution and shall be permitted to remain in the Home pending decision on application if he or she so elects. If application is acted upon favorably, applicant shall vacate the Home not less than one week previous to the issuance of his first pension check; if applicant is rejected applicant shall

continue as a Home resident if he so desires.

SEC. 5. A member who was on pension roll when entering . Home, upon vacating, shall again be placed on roll by internotional Secretary-Treasurer, and member's local union notified of such action, and eligibility to receive pension shall begin on the Monday following his departure from the Home.

SEC. 6. Secretaries of subordinate unions shall forward on the last Saturday of each calendar month to the International Secretary-Treasurer a true and correct list of members on the pension roll showing the amount due each pensioner. On receipt of such list the International Secretary-Treasurer shall transmit the amount due to the local secretary for distribution.

SEC. 7. Any beneficiary who has knowingly testified falsely concerning his or her qualifications as a worthy applicant for said pension shall be debarred from receiving pension for

such time as the Executive Council may deem fit.

SEC. 8. The Executive Council shall have the power at all times to review any pension case, and if in its opinion circumstances warrant it the beneficiary may be debarred from further participation in the pension fund. In any case where payment of the full International Typographical Union pension to a pensioner would deprive him of a pension or similar benefits from other sources, the Executive Council shall have power to authorize payment of a smaller International Typographical Union pension.

SEC. 9. In order to meet exigencies that may arise, the Executive Council is authorized and empowered to make such changes in administering the old age pension fund as it may

deem wise.

#### MORTUARY BENEFITS

SEC. 10. Mortuary claims shall be allowed the beneficiary of any deceased member in good standing under the following terms and conditions: It is expressly provided that the beneficiary of any member shall be entitled to the mortuary benefit should death occur within the thirty-day period immediately following the expiration date of a current working card. (See section 1, article vii, and section 2, article xxi, bylaws.)

SEC. 11. Each and every member of the International Union-shall be required to designate a beneficiary to whom his or her mortuary benefit is to be paid in event of death. Such designation shall be made upon his or her application for membership, or upon a blank provided by the International Secretary-Treasurer for the purpose. The mortuary benefit of a member who is on the old age pension roll or a resident of the Union Printers Home at time of death shall be disbursed as provided in section 16, and no beneficiary may be designated other than as provided in that section. Any member may change his or her beneficiary at any time by notifying the International Secretary-Treasurer and filling out the proper form, except that pensioners and Home residents shall be restricted in the choice of beneficiary or beneficiaries to the relatives listed in section 16.

SEC. 12. The mortuary benefit is primarily intended to guarantee proper burial for the member and other considerations

are secondary to this end. The local union shall determine what constitutes a proper burial in cases where the deceased member is indebted to the local union for assistance provided or guaranteed before death during and pertaining to his last illness; or for dues and assessments the local union has been compelled to pay in his behalf as provided in section 8, article vii. bylaws, and in such cases the excess over burial expenses shall be paid to the local union to the extent of such indebtedness before any amount shall be paid to a designated beneficiary.

It is specifically provided that the mortuary benefit is not to be used as security for personal loans by the local union of others to members. Dues and assessments paid by a local union on behalf of a pensioner or resident of the Home are

not deductible from the mortuary benefit.

Sums paid by the local union for transportation to the Home of as refund transportation from the Home or subsequent Home transportations which the member can not pay himself may be charged as indebtedness to the local union within the meaning of this section.

Where a member has made no specific arrangements for funeral expenses to be paid from another source the Interna-tional Typographical Union mortuary benefits shall be available for that purpose except as herein otherwise provided. Where the Secretary-Treasurer of the International Union has documentary information that a member has made specific arrangements for funeral expenses to be paid from another source indebtedness to the local union as above provided shall first be paid and upon presentation of receipted bills for funeral expenses the balance shall be paid to the designated beneficiary. Where (without specific arrangement) funeral expenses have been paid from insurance or other fraternal benefits, the designated beneficiary shall receive such mortuary benefit as may be payable.

SEC. 13. If no beneficiary be named or if the designated beneficiary resides at a point where he or she can not take charge of the funeral then the International Typographical Union shall defray the expenses of the funeral out of the amount owing upon the mortuary benefit of the deceased member not to exceed the amount available from such benefit.

Sec. 14. On the death of a member in good standing the president and secretary of the subordinate union shall immediately notify the Secretary-Treasurer of the International Typographical Union on a form provided for that purpose, accompanying such notice with the last working card or traveling card of the deceased member. The application for mortuary benefit form shall contain an itemized statement of all sums due the local union for which it claims payment, the amount to be paid the beneficiary and (where funeral expenses are to be paid from the benefit) shall be accompanied by the itemized bill for funeral expenses of the deceased. In the event that the designated beneficiary shall have paid the funeral expenses the balance of the benefit due the beneficiary shall be specified on the form.

SEC. 15. If there be no indebtedness to the local union nor any notice properly filed as to the payment of funeral expenses from another source, or if funeral expenses have not been paid from another source, the beneficiary is hereby charged with the responsibility for payment of burial expenses and unless the beneficiary submits a receipt showing payment of funeral expenses the local union shall forward the bill for such expenses for payment. The balance of the benefit may then be paid to the beneficiary. Should the designated beneficiary be other than the person in whom the right of burial rests, funeral expenses in the amount determined and guaranteed by the local union shall be paid and the residue of the benefit paid to the designated beneficiary. (Refer to section 12 for tases where deceased was indebted to local union.)

Sec. 16. Where a deceased member is on the old age pension roll or a resident of the Union Printers Home at time of death and has not designated one or more of the persons specified in paragraph (c) below, Union Printers Home or a local union as his beneficiary or beneficiaries.

or where a deceased member has not designated a bene-

ficiary.

or in the event the beneficiary designated shall have

died before the mortuary benefit check is cashed.

or if the deceased member has designated his wife as beneficiary and, after such designation, she ceased to be his wife.

-Then, or in any of these events, the mortuary benefit

shall be disbursed as follows:

- (a) First, payment of funeral expenses guaranteed by local union, the superintendent of the Union Printers Home or the Secretary-Treasurer of the International Typographical Union.
- (b) Second, to reimburse his local union as provided in section 12º of this article.
- (c) Third, to the living wife (husband) of the member; but in the event there is no wife (husband) living then to be disbursed for the benefit of the living children in equal amounts. In the event there are no children then to the surviving father and mother or either of them surviving alone. If no wife (husband), child or children, father or mother survive, then to surviving brothers and sisters in equal shares. Payments due minor children may be paid to a legally appointed guardian, or if none has been appointed, payment may be made to the president and secretary-treasurer of the local union to be expended by them on behalf of such minor or minors.
- (d) Fourth, in the event there are no surviving wife or husband; children, mother or father; sisters or brothers, then the balance remaining shall revert to the mortuary fund.
- Sec. 17. Only the local union of which the deceased was a member at time of death (or the local union having charge of the funeral of a member on traveling card) shall have the

right to file claims for reimbursement as provided in section 12 hereof. Where the deceased is to be buried in a place other than where death occurs the local union with which deceased's card is on deposit shall make all arrangements and report fully on mortuary benefit application blank to the Secretary-treasurer of the International Union. Payment of mortuary benefits shall only be made on receipt of mortuary benefit application blanks fully made out by the local officers. Where the beneficiary of a deceased member died before mortuary benefit check is cashed the local union may handle joint funeral expenses the same as though they were of the deceased only.

SEC. 18. It is specifically provided that in the interpretation and application of these mortuary benefit laws the International Typographical Union shall be the sole and final

authority.

SEC. 19. In case of the decease of a member holding a traveling card, the mortuary benefit shall be paid through the local union in or near whose jurisdiction death occurred or in or near whose jurisdiction burial takes place, as may be decided by the International Secretary-Treasurer. In cases where there is no nearby local union the International Secretary-Treasurer is authorized to disburse the benefit in accordance with the Mortuary Laws.

SEC. 20. In the event the beneficiary or beneficiaries of a deceased member can not be located within thirty days after notice of death the International Secretary-Treasurer shall insert in the next three issues of the official Journal a notice requesting information about such beneficiary or beneficiaries. If after six months from the date of first such publication no claim is received from the said beneficiary or beneficiaries, then the mortuary benefit payable to such beneficiary or beneficiaries shall revert to the mortuary fund.

## ARTICLE MEX-STRIKES, LOCKOUTS AND DEFENSE

SECTION 1. In the event of a disagreement between a subordinate union and an employer, which, in the opinion of the local union, may result in a strike, such union shall notify the President, who shall in person or by proxy investigate the cause of the disagreement and endeavor to adjust the difficulty. If his efforts should prove futile, he shall notify the Executive Council of all the circumstances, and if a majority of said Council shall decide that a strike is necessary, such union may be authorized to order a strike.

SEC. 2. When a strike has been authorized by the Executive Council, a vote by referendum may be ordered, or the president of the subordinate union shall, within a time fixed by the Executive Council, call a meeting of said union (of which all members shall be constitutionally notified) to take action thereon. All members in good standing and who have been members of said union for the preceding six months, except those classified as proprietor or not-at-the-trade for dues payment purposes, shall be deemed eligible to vote upon the questions pertaining to the inauguration and for settlement of strikes or lockouts. Should a majority of such members present decide by secret ballot in favor of a strike the president of the subordinate union shall immediately notify the Executive Council that a strike has been inaugurated and give all available information including number of members involved.

- SEC. 3. Whenever a strike occurs without the sanction of the Executive Council, the council must immediately disavow the illegal strike and notify all subordinate unions to that effect. Protection shall be guaranteed to all members who remain at accept or return to work in offices aftered by the illegal strike, as specified in section 8. Any officer or member of a union who shall suppress or conceal from his union or the Executive Council any official information concerning a strike, or a proposed strike, shall upon conviction by the local union be suspended or expelled.
- SEC. 4. A strike or lockout of any branch or craft of the International Union, authorized by the Executive Council thereof, shall apply alike to each and every union, craft and individual working under said jurisdiction in the office or concern involved. Should a majority of said enion fall to support a proposition to strike, the aggrieved union may take an appeal to the Executive Council, and, if after being furnished with statements from all parties concerned, a majority of the members of that body believe the inauguration of a strike necessary, the President shall in person, or by proxy, again attempt to effect a settlement with employers, and if unsuccessful, shall, through the officers of the various unions, order a general strike of all members of the International Typographical Union employed by the firm or firms interested, and those disregarding this order shall be forthwith expelled.

SEC. 5. In case of impending trouble involving allied crafts, the Executive Council shall call into consultation the president or presidents of unions of such crafts.

- Sec. 6. A strike or lockout of any union may be declared ended by a majority vote of the union. In case of a strike or lockout where more than one craft or union affiliated with the I.T.U. is involved, settlement shall be made by a majority vote of each craft or union involved. In making settlement all crafts or unions involved shall be parties thereto, as provided by I.T.U. laws.
- SEC. 7. It is imperatively ordered that no strike or lockout shall be deemed legal, or money expended from the defense fund on that account, unless the strike or lockout shall have been authorized or recognized by the Executive Council: but should a strike, lockout or reduction of wages be forced on a union without an opportunity to carry out the provisions of sections 1 and 2, said union shall be entitled to the full privileges of the defense fund.
- SEC. 8. To affect union men prejudicially to their standing in the union who remain at work in an office where any member of the union men in such office have struck work on what they deem good grounds for such action, the strike must have been authorized in accordance with sections 1, 2 and 4 of this

law. Unless so authorized, those remaining at work are not liable to charges of violation of any union laws.

SEC. 9. When there shall have been a strike ordered in accordance with the laws of the International Union all

union men shall be deemed to have been notified.

Sec. 10. When a strike has been inaugurated in accordance with the provisions of this article and authorized by the Executive Council or a lockout has been sanctioned by the Executive Council, there shall be paid an amount sufficient to pay the benefits herein provided. Each member who is the sole support of one or more persons shall receive as a weekly benefit 60 per cent of the scale (for day work) and each member who has no such dependents shall receive 40 per cent. If there are two or more separate scales in the jurisdiction, the benefits shall be based on the highest of these scales (for day work). In any event not less than \$36 per week shall be allowed for each member with one or more dependents and not less than \$24 per week for each member without dependents. Payment of benefits may be discontinued at such time as the Executive Council deems wise and names may be added to or removed from the strike roll at disc etion of the Executive Council: Provided, No member shall be entitled to strike benefits until a strike has been in progress one week and said strike or lockout shall have caused his income at the trade to cease, except as provided in section 12 hereof.

Sec. 11. No subordinate union shall be allowed to increase the statutory benefits without the sanction of the Executive Council, unless the said subordinate union pays such increase

out of its own treasury. Sec. 12. No member of a subordinate union on strike shall be entitled to the weekly benefit unless he reports daily to the proper officer of the subordinate union while the strike continues. Any member refusing work while out on strike shall be debarred from all benefits under this law, and for each day's work performed in excess of one shift one-fourth of the member's regular strike benefits for that week shall be

SEC. 13. All moneys received by a union from the Internadeducted. tional Typographical Union shall be used, with the approval of the Executive Council, in supporting men on a strike or lockout, in assisting their removal to other cities, paying the necessary expenses of the conflict, and prosecuting strikes in such further manner as the union interested and the Executive Council shall deem advisable.

Sec. 14. During the continuance of a strike the executive board of a subordinate union shall make weekly reports to the Secretary-Treasurer of the International Union, showing the amount of money distributed for benefits, number of beneficiaries heads of families and single persons, union or nonunion-and all other facts that may be required. All moneys from the International Union remaining unused by the Jocal union shall be returned to the Executive Council.

SEC. 15. In the event of a strike against all shops of members of an employers' association, the union or unions involved may settle with such individual employers as may be so inclined.

Sec. 16. The International Union disapprovés of the division of members of subordinate unions into distinct classes in the settlement of questions, believing it to be the right and duty of each member to vote on such occasions, except as

otherwise provided by law.

Sec. 17. All monies received by the Secretary-Treasurer for defense purposes may be expended by the Executive Council as otherwise provided by law and for such other defense pur-poses as the Esecutive Council deems useful in advancing the interests of the International Typographical Union, its sub-ordinate unions and members, including expenditures occur-ring in connection with any strike or lockout, publicity campaigns, expenses incurred in establishing or encouraging the establishment of enterprises to compete with or replace any establishment where a strike of lockout is or has been in progress or is threatened or any other means which, in the judgment of the Executive Council, would advance the interests of the International Typographical Union, its subordinate local unions, or its members, through any action deemed by the Executive Council to be defensive in character. Where members have been deprived of their usual opportunity for work because of a shuddwn of a plant caused by a strike of another union it may be considered a defense expenditure for the Executive Council to pay such members the equivalent of strike benefits as special assistance for such time as may be determined by the Executive Council, provided such payments are, legal.

SEC. 18. Where one employer operates more than one plant or establishment local unions in whose jurisdiction such plants or establishments are located may take such joint action as is lawful under civil law after approval by the

Executive Council.

#### ARTICLE XX-SUBORDINATE UNIONS AND OFFICERS

SECTION 1. Subordinate unions are required to elect three auditors, or select an expert accountant or accountants, whose duty it shall be to examine and audit quarterly all books and records of their financial officers; to personally visit banks to secure a written statement of bank balances at time of audit; to verify monthly bank statements of deposits and withdrawals; to personally visit bank safety deposit vaults for verification of contents reported to be held therein for the quarterly periods May-June-July, August-September-October, November-December-January, February-March-April, and report to the Secretary-Treasurer of the International Typographical Union by the twentieth of the month following the end of the quarter, the condition of the funds and accounts, the number of members in good standing, number initiated, expelled or suspended, admitted or withdrawn by card for each month, the amount of the fiduciary officers' bonds and the company in which they are bonded, the amounts expended in sick relicf, funeral benefits, or in any form of charity, together with such other information as the

Executive Council may deem necessary. A majority of the auditors, or the expert accountant or accountants, must be present at the examination of the accounts, and no member of the committee, and no accountant, shall attach his or her signature to a report unless such member or accountant shall have personally participated in such examination. The president of the subordinate union shall sign the quarterly report attesting that the auditing committee or certified accountant has audited the books as provided in this section. Should inaccuracies appear in the report of an auditing committee, the President of the International Typographical Union shall appoint an expert accountant to examine the books of the union in which such inaccuracies are noted, who shall report his findings to the President of the International Typographical Union, he in turn to file the same with the president of the union concerned, who, in event of willful falsification by said auditing committee, shall suspend such committee from office, together with the delinquent financial officer or officers, and impose upon each of them a fine of \$10, which fine shall be forwarded to the Secretary-Treasurer of the International Typographical Union. In the event of the suspension of an auditing committee, an election of their successors shall be held within one month from the date of such suspension, or expert accountants shall be appointed. Expenses of examination of books and records shall be borne entirely by the subordinate unions. Subordinate unions failing to report to the Secretary-Treasurer of the International Typographical Union, as required by this section, shall be nned \$25.

SEC. 2. Every local union subordinate to the International Typographical Union shall cause its fiduciary officers to be bonded in the sum of at least \$1,000. Such bonds shall be filed with the Secretary-Treasurer of the International Typographical Union. it shall be the duty of the Secretary-Treasurer of the International Typographical Union when any subordinate union fails or refuses to comply with provisions of this section to provide a bond of the amount herein provided. the cost thereof to be paid from the general fund and charged to the delinquent union. A subordinate union failing to reimburse the International Union for money so expended within thirty days shall be subject to a fine of not more than \$25 at the discretion of the Executive Council. The fiduciary bonds of local officers shall be issued by the International Typographical Union at an annual premium fixed by the Executive Council in the amount sufficient to maintain a

fund from which to pay losses.

SEC. 3. Where a subordinate union alleges misappropriation, default or shortage in the accounts of a financial official bonded by the International Typographical Union and makes claim for payment under the provision of its bond such claim shall be substantiated by an audit of the books and records of the officer involved, either by certified accountant or by local union auditing committee as the Executive Council may require. Such audit shall be submitted to the local union and, if accepted by majority vote, such acceptance shall be binding as regards the fact of misappropriation or defalcation. The local union shall report the full circumstances and details to the Executive Council of the International Typographical Union for such action as that body shall deem proper. The Executive Council shall have power to further investigate and make payment under the bond of such amount as in its/judgment is verified and may in its discretion summarily expell the officer found to have defaulted in his accounts to the local union.

- SEC. 4. The funds of each local union deposited in bank shall be deposited in the name of the local union, and money shall be drawn from the account only by checks signed by the president and secret ry-treasurer, and only then when both officials are fully satisfied that such money is lawfully and justly due the person or persons for whose benefit the check is drawn. Bonds or other securities owned by local unions shall be deposited in safety deposit boxes which can only be opened in the presence of such officers as are provided by local union laws, but no less than three, two of whom shall be the president and secretary-treasurer. Where a certified accountant is not employed to make audits, one member of the local auditing committee shall be the third member. Should inaccuracies appear in the accounts of the local union, or if the president of the local union has reason to believe there is a shortage or misappropriation of funds, he shall at once report the matter to the President of the International Typographical Union for investigation. In the absence of the president of the local union, and in cases where the offices of president and secretary-treasurer are combined, the vice-president shall perform those duties of the president hereinbefore specified.
  - Sec. 5. Subordinate unions are required to furnish on request a detailed statement of scales of prices, hours of labor. and any other information as may be deemed necessary by the Executive Council for the keeping of proper records at International headquarters or for use in furthering the objectives of the union. Such information may be codified and printed or published as necessary to meet the needs of the International and local unions.
  - SEC. 6. Subordinate unions shall fix a time and date for regular monthly meetings that will permit members holding situations on seven-day newspapers to attend these meetings.
  - SEC. 7. Subordinate unions, through the proper officers, shall purchase monthly the international dues stamps or stamped working cards in sufficient quantities to permit the issuance of either a stamp or stamped working card to each member of the local union.
  - SEC. 8. Returns of per capita tax from subordinate unions shall be made monthly, under seal, to the Secretary-Treasurer of the International Typographical Union. These returns shall state the number of members of the union and the amount so forwarded.
  - SEC. 9. It is enjoined upon each subordinate union to have a suitable seal engraved, to authenticate all documents.

Sec. 10. An appeal for financial aid from a local union to subordinate unions to be legal must bear the printed approval

of the Executive Council. Sec. 11. It shall be the duty of presidents of subordinate unions to correct all violations of law of the International Typographical Union within their jurisdiction and when unable to do so, they shall refer the matter to their local

Sec. 12. Local unions shall provide for the appointment or election of three members whose duty it shall be to visit, at least twice each year, the different newspaper and job offices in their jurisdiction, and at the next regular meeting make a report of their findings as to the sanitary condition of

places visited. SEC. 13. Each subordinate union shall appoint or elect a standing label committee whose duty it shall be to encourage and promote, by systematic campaign locally and in coopera-tion with the International Typographical Union, a demand for the use of the union label on all printed matter. It shall be the duty of this committee to procure and disseminate information as to where union label goods may be purchased. and to encourage patronage by all members of only union label goods and union services. The secretary of each subordinate union, immediately upon appointment or election of a label committee, shall forward to the President of the International Typographical Union the name and address of the chairman of such committee.

Sec. 14. Each subordinate union shall appoint or elect a standing committee on new processes whose duty it shall be plan courses of instruction and necessary triuning in all new printing and mailing processes in cooperation with the inter-national Typographical Union. A copy of such information as may be compiled shall be forwarded to the Bureau of

Education of the I.T.U. SEC. 15. It shall be the duty of the secretary of each subordinate union to furnish monthly to the Secretary-Treasurer of the International Typographical Union a statement of all rejections, expulsions, suspensions and reinstatements, and the reasons therefor; and also a monthly statement of the condition of the trade and other matters of interest to the

craft in the jurisdiction of his union. SEC. 16. Secretaries of subordinate unions are instructed to answer all correspondence from sister unions as soon as possible after receiving the same. All correspondence between subordinate unions as to character, etc., of applicants for membership, and all other business of like nature, shall be

conducted in sealed envelopes.

SEC. 17. On issuing a working, traveling or honorable withdrawal card, the secretary of the local union granting such card shall place thereon the register number of the member receiving the same. In no case shall any other number except that given by the Secretary-Treasurer of the International Typographical Union be assigned a member or placed on the card held by him.

SEC. 18. Each local union shall report monthly, through its secretary, on forms grovided by the Secretary-Treasurer of the International Typographical Union the number of due stamps received, used and remaining on hand, the names and ages of all new members initiated, with the date of their initiation; the names and register numbers of all members suspended, expelled, or reinstated, with the date of same; all traveling and honorable withdrawal cards received, with date, name and register number of cardholders; all traveling and honorable withdrawal cards issued, with date, name and resister number of member; the name and register number of all members lost by death and the date of death, together with such other data as may be required for the completion of a member's record or deemed necessary by the Executive Council for the use of the International Typographical Union.

Sec. 19. It shall be the duty of each local union to keep a record of all its members in such manner as will permit of the making of monthly reports and furnishing the data provided for in the preceding sections. Any local union failing to make monthly reports, as provided herein, shall be fined \$10.

SEC. 20. It shall be the duty, of presidents of subordinate unions to report within ten days to the President of the International Typographical Union full information concerning the unionization of shops in their jurisdictions, the number of employes taken into the union and any other information that might prove of value to other local unions.

#### POWERS OF

SEC. 21. A subordinate union may take political action when the interests of organized labor as a whole and the craft in particular may be benefited thereby. Subordinate unions should establish a Political Action Committee which will cooperate with city, county and state COPE organizations; will check and encourage registration; will study and make known to the membership the voting records of political candidates; and will cooperate with other groups working to repeal the Taft-Hartley Law: Provided, No subordinate union shall assess its members for partisan political purposes.

SEC. 22. No boycoit shall be levied by any local union whereby a sister union subordinate to the international Typographical Union, or members thereof, may be affected, with out the specific consent of the union so affected: Provided, The union desiring to boycoit shall have the right of appeal to the Executive Council of the International Typographical Union, which shall give all interested parties a full hearing before rendering a decision.

Sec. 23. A union has no right to set apart a day as a national holiday and declare members unfair because they do not observe the same, although ordered by the union to do so.

Sec. 24. It is optional with subordinate unions to impose fines on members for failure to participate in Labor Day paradea, when such subordinate unions, by a majority vote of members in good standing, at a regular meeting or a special meeting called for that purpose, shall decide to participate in Labor Day parades.

SEC. 25. Subordinate unions, acting in conjunction with the Executive Council of the International Typographical Union, have a right to declare a general amnesty for a set period to non-unionists working in the territory under their

jurisdiction.

- (a) Local unions desiring to apply the foregoing section must conform with instructions adopted by the Charleston must conform with instructions adopted by the chartestone convention of 1928, as follows: (1) Permission to accept applications under amnesty must be secured of the Executive Council of the International Typographical Union. (2) A rescutive production requesting such permission must be adopted by the subordinate union, stipulating the period of time such amnesty is to apply. (3) At the same time subordinate unions may confer organization powers upon local officers or a committee or a representative of the International Union. (4) Where such power is conferred and permission given by the International Typographical Union Executive Council, applicants for membership who are competent workmen may be accepted into membership and obligated without submitting their applications to a vote of the lòcal union. (5) The power conferred and permission granted by the Executive Council may be restricted by the council to a particular office or offices, and the council may impose such further restrictions as in its judgment are necessary for the protection of the interests of the union. (6) Where a subordinate union does not confer authority as above indicated to its officers or a committee, as provided for in instruction 3, applications must be submitted to a vote of the local union, but the application is accepted by majority vote instead of three-fourths vote as required by section 10, article xvi, bylaws. (7) That in unorganized territory and in offices over which the local union exercises no jurisdiction, representatives of the international Typographical Union may be authorized by the Executive Council to obligate applicants under the same conditions as those applying to local unions operating under general amnesty.
  - Sec. 26. Individuals or subordinate unions are forbidden to use the name of the International Typographical Union in any manner in soliciting advertising for convention souvenirs,
  - SEC. 27. Subordinate unions have no authority to confer upon any person honorary membership. Conventions only can confer such honorary membership in the International Typographical Union.
  - SEC. 28. Proposals to increase or decrease local dues or levy a special assessment may be adopted only by majority vote by referendum of six-month methbers. Ballots shall plainly explain necessity for the proposed change. Whenever it is proposed that special assessment shall be made for more than one purpose, each proposition must be voted upon separately. Provision must be made for a specific date on which the collection of each special assessment shall be discontinued. Special assessments levied by local unions must apply to all classes of members actively engaged at the printing trade in a manner that is equitable.

Sec. 29. A subordinate union may revoke the membership of any member within one year of admission if upon due trial in accordance with the provisions of article iv, of these bylaws, it should be established that admission was gained by fraudulent means or upon the basis of false or misleading statements in application for membership.

#### EECOMMENDATIONS TO

- SEC. 30. While it is the sense of the International Union that subordinate utions, and they only, have at all times the right of judging of the qualifications of the applicants for admission to membership, it is believed the true policy of subordinate unions should be to so to the utmost limits consistent with safety and honor in receiving into membership all unfair printers and mailers, who make application to that effect, and who evince a desire to again become fair men.
- Sec. 31. Subordinate unions are recommended to adopt a conciliatory method of making important changes in their scale of prices, and before any change in the scale of prices is sought to be made effective such proposed changes shall be submitted to all the publishers interested. The international Union, when requested, shall allow a representative of an employers' association to be heard on important changes affecting their interests.

SEC. 32. The International Union recommends that a day's work on daily papers be restricted as nearly as possible to six

hours' composition.

SEC. 33. The International Union directs subordinate unions to use their influence in having all work sent into shops employing members of unions represented in the allied printing trades.

Sec. 34: The International union recommends to subordinate unions the percentage system of collecting dues where practicable. Where the percentage system is adopted the rate shall be uniform on all earnings.

SEC. 35. It is the sense of the International Union that the

system of rebate dues is legal.

- SEC. 36. Subordinate unions are recommended to print in labor journals of their localities a list of union printing offices, so that officers and members, societies and others favorable to organized labor may be kept posted as to what offices are fair.
- SEC. 37. The International Typographical Union recommends that subordinate unions publish the names of all firms. corporations and individuals engaged in the printing industry which do not pay the scale of prices, or which do not observe the established customs of the several unions.

SEC. 38. Local unions are directed to affiliate with the various AFL-CIO central bodies in their localities.

SEC. 39. Members should purchase, where possible, such goods as bear the trades union label recognized by the International Union.

Sec. 40. No member of the international Typographical Union shall purchase products of non-union labor when goods made under favorable conditions can be obtained. ubordinate unions shall enact laws to carry out the pro-

visions of this section. Sec. 41. It is recommended that all subordinate unions be required to issue to their members tickets or cards bearing the union label, and a request to the merchants with whom they deal that they insist on having their printing done by union labor only. That subordinate unions be required to endeavor to secure their use by the members of other trade

unions and friends of organized labor.

SEC. 42. It is the sense of the International Typographical Union that each subordinate union should make provision for such of its members as are unable to obtain the scale through disability—the union to be the judge—by placing them on a special list, and allowing them to seek work under conditions prescribed by such union.

SEC. 43. In localities where mallers' unions are instituted, but not recognized by the employers, local typographical unions when negotiating scales and new working agreements shall endeavor to procure recognition for such organization

of mailers before signing new agreements.

SEC. 44. In localities where no mailer local exists the International Typographical Union instructs local typographical unions that it is their duty to organize all mailers in their

furtsdiction. SEC. 45. The value of the state and provincial federations of the American Federation of Labor and Congress of Industrial Organizations to the labor movement of the respective states and provinces is unquestioned. Typographical Unions have every reason to take an active part in the work and deliberations of those bodies. Active interest and affiliation by our local unions beget the more hearty support of the entire labor movement. That these desirable results accruing from affiliation with state and provincial branches, American Federation of Labor and Congress of Industrial Organizations, may become effective, it is recommended that local typographical unions become affiliated with the state and provincial branches, American Federation of Labor and Congress of Industrial Organizations of their respective states

and provinces. SEC. 46. A local union may provide its own method for determining changes in its constitution and bylaws. However, where the local submits such changes to the referendum, a majority vote cast in such referendum shall adopt.

SEC. 47. The International Typographical Union recommends that scale committees shall exert their best endeavors to negotiate for the elimination of the double-header shifts.

SEC. 48. It is recommended that all local unions establish organization committees, which shall, in cooperation with special representatives of the President of the International union carry on continuing organizational efforts in the jurisdiction of each local union.

#### ARTICLE XXI-TRAVELING CARDS

Section 1. Members in good standing who are desirous of leaving the jurisdiction of the union to which they belong shall be entitled to receive the International Typographical Union Traveling Card, which shall be furnished upon the payment of all financial obligations: Provided, That a subordinate union may refuse to issue traveling cards to any of its members for a period not to exceed three (3) months collowing initiation of a strike. This action shall regulre a majority vote, which shall be taken at the meeting at which the strike vote is taken. A newly obligated member shall not be enfitted to receive a traveling card until his I.T.U. registration number has been forwarded to the subordinate union in which he was obligated, nor until after the local union has certified to the Bureau of Education that the newly obligated member has autisfactorily passed the examination on trade unionism as provided for in section 3, article xvi, bylaws. A member accepting such card severs all connection with the issuing union. Where traveling cards are withdrawn and returned to the local union issuing same more than twice in thirty days a charge of 25 cents each shall be made-for all cards issued after the first.

Sec. 2. The said traveling card shall be in words as follows:

This is to certify that the bearer hereof, whose signature appears in this certificate, is member in good standing of the International Typographical Union and is entitled to the friendship and good offices of all unions under the jurisdiction of the International Typographical Union...

This card expires in two months from the time the last International due stamp thereon shows dues to have been paid. It may be renewed within two months after its expiration.

Any member of the International Typographical Union stands suspended when four months in arrears for local or International dues and assessments. (Sec. 7, article-vii, bylaws.) Suspended members may be reinstated as provided in article kvi, bylaws, within one year after suspension.

The reverse side of said card shall contain these words:

Sec. 3. Any member receiving such card shall deposit the same with the proper union officer when accepting work within the jurisdiction of a local union: Provided, This shall not prevent sister unions from mutually agreeing to recognize each other's current working cards for a period of thirty days. Any member neglecting his duty as prescribed in this section may be tried for violation of International Union law, and upon conviction, be punished as deemed just by the local union in whose jurisdiction the offense was committed.

SEC. 4. The secretary of a subordinate union shall receive an international traveling card at any time if the card be clear and within date and no charge pending against the holder: Provided, When card is issued from a subordinate union of another language than that in which it is offered for déposit recipient union may require that holder pass language and competency test before admission. Membership in said union shall date from time of said reception and any person admitted by such card shall be exempt from the usual initiation fee and from any assessments of which he is not a beneficiary.

SEC. 5. International cards must be received (if clear and within date), potwithstanding the fact that charges may be pending in a afster union against an officer of the union issuing the same: Provided, Such charges were not made known

to said union previous to the issuance of such card.

Sec. 6. In case of a strike involving one-third of the situations within the jurisdiction of a union, said union may refuse to receive cards for a period of not exceeding three months, or, with the consent of the International President, for the duration of the strike. In case of fire, flood, tornado, earthquake, pestilence, or similar catastrophe, amounting to public calamity, the Executive Council may, in its discretion, grant permission to unions in localities thus afflicted to refuse to accept traveling cards during such periods as such calamitous conditions continue: Provided, That when, for any reason, a serious condition of unemployment exists in the jurisdiction, a subordinate union may, with consent of the Executive Council, refuse to accept traveling cards for a specified period.

Sec. 7. It is contrary to union principles for any person holding an International traveling card to go to work in a town of city where no union exists, during the progress of a strike, without the consent of the parties engaged in such strike, and the union issuing such traveling card has the power, upon sufficient proof being furnished, to revoke it and

publish the holder as an unfair man.

SEC. R. A subordinate union can not be compelled to grant card to a member against whom charges are pending.

Sec. 9. A subordinate union can not be compelled to grant a traveling card to a member who is financially indebted to the local union for dues, assessments, or for loans granted by the union, either from its treasury or from relief funds, societies or associations, financed in whole or part by the local union.

Sec. 10. All traveling cards issued by subordinate unions must have the seal of the issuing union stamped thereon, and all signatures, dates and names shall be in ink.

SEC. 11. When the secretary of a subordinate union issues a traveling card, he shall require that the member receiving such card shall place in the blank provided for that purpose his the (member's) smature in the presence of the secretary. and the secretary receiving a traveling card shall require the holder to sign his name on back of said card for comparison. and should there be a discrepancy in the signatures, the secretary shall take up the card pending investigation. Any violation of this section shall be punishable by a fine of \$5. This shall not apply to cards forwarded by mail.

Sec. 12. All traveling cards deposited with a local union shall be endorsed with the date of deposit and the name and number of the union and forwarded to the Secretary-Treas-

urer of the International Typographical Union.

SEC. 13. When a card is issued to a member of the allied crafts, chartered by the International Typographical Union. the secretary issuing such card shall insert after the member's name the craft to which he belongs. All allied craftsmen must deposit their cards with the union of their craft, if one be in existence where they are located, in order to protect their membership in the International Typographical Union. When, in the opinion of the Executive Council, there is a sufficient number of members of any allied craft in a local typographical union, and the best interests of the organization will be subserved thereby, they shall be directed to apply for a charter and organize a local union of their own craft.

SEC. 14. A change in the secretary-treasurership of the International Union does not invalidate a clear card, within date, signed by a former secretary-treasurer. The blank cards furnished subordinate unions are good until used if the union remains in existence as a part of the International organi-

zation.

Sec. 15. Traveling cards issued by a subordinate union after its charter has been suspended or revoked shall not be honored by local unions, but any member of such a union, upon furnishing the Secretary-Treasurer with sufficient proof of memberahip shall, upon the payment of all arrearages to the International Union, be entitled to and receive a traveling card from the Secretary-Treasurer of the International Typogtaphical Union.

#### RENEWAL AND REISSUE

Sec. 16. Where a union member who has been for a length of time so located as to make it unnecessary for him to deposit his card, under the workings of our system, until after it has expired by limitation, presents his card for renewal to a local union, such union, on the payment of accrued International per capita tax and assessments from date of infuance to date of such renewal, provided such time does not exceed four months (and no local fees whatsoever shall be chargeable)... shall promptly renew such card, provided the application for renewal be accompanied by satisfactory evidence, that

the applicant has not in the meantime been guilty of any antiunion conduct. Any member holding a traveling card shall stand suspended as provided in section 7, article vii, bylaws, when four months in arrears for International dues and assessments, and must reinstate as provided in article zvi, bylaws. Nothing herein shall be held as preventing such member from making application as a new member if he so elects; and the financial secretary shall report to the Secretary-Treasurer of the International Typographical Union all collections made for arrearages for each month in sequence. No dues, assessments or fees of any kind can be collected for any one month unless the indebtedness for all previous months has been liquidated. Should the union issuing such card have in the meantime ceased to exist, it is the right of the union man holding such card to have it accepted by any subordinate union on his showing to the satisfaction of such union that his record has been a clear one since the date of issue of such card. Unexpired traveling cards must be renewed by local unions, on presentation by the holders of applicactory evidence of union conduct, and the payment of International per capita tax and assessments. Members who do not work or live within the jurisdiction of a local union must knew their traveling cards through the International Secretary-Treasurer to qualify as unattached members under the provisions of section 1, subsections (e), (f) and (g), article ix, constitution.

SEC. 17. When a member loses his traveling card he can only receive a duplicate thereof-by applying to the Secretary-Treasurer of the International Union, who shall issue such duplicate on the payment of \$1 after sufficient time has elapsed for an investigation to be made. Duplicates shall be furnished from a series separate from the regular traveling furnished from a series separate from the regular traveling cards and have printed thereon the words "Duplicate Card."

### ARTICLE XXII-TYPGGRAPHICAL JOURNAL

SECTION 1. The Typographical Journal shall be published once a month and shall contain in addition to the reports and other matters required by law to be published, the reports of the International and Home audits; official orders; charters granted; charjets guspended, and the causes; a list of deceased members with register numbers, the name (or number) of the local union to which the deceased was attached; as well as the place where the death occurred; state of trade; advertisements meeting the approval of the Executive Council; all reports (including detailed statement of expenditures) and proceedings of the officers and members of the corporation of the Union Printers Home; and such other matters as may be of interest and importance to the craft generally.

SEC. 2. The subscription rate of The Journal to nonmembers shall be \$2 per annum, postage in addition to foreign subscribers. The price for single copies shall be 20 cents each.

#### ARTICLE XXIII-UNION PRINTERS HOME

Sacrion 1. This union hereby ratifies the action of Edward T. Plank, William S. McClevey and Columbus Hall, as its trustees, in conveying the Home at Colorado Springs, in Colorado, to the Union Printers Home corporation as trustee, for the uses and purposes, and upon the trust declared and the terms and conditions stated in the deed by said grantors to asid grantees dated the 17th day of May, 1892.

SEC. 2. Any member in good standing of any subordinate union shall be deemed a member of the international Typographical Union for the purposes of admission as a resident of the Home at Colorado Springs, Colorado, and of participa-

tion in the bounty.

SEC. 3. No person shall be deemed a member in good standing of the International Typographical Union who shall will-fully neglect, disregard or violate any resolution, order, by-law, or duty prescribed by said union of and concerning the management and control of the Home at Colorado Springs, or of the trust upon which said Home is held by the Union Printers Home corporation.

SEC. 4. A full and complete, true and accurate report shall be submitted to each convention of the International Typographical Union by the Board of Trustees of the Union Printers Home, showing its transactions and containing such recommendations as may be useful to the union in furthering

the interests of the Home.

SEC. 5. At all times the articles of incorporation of the Board of Trustees of the Union Printers Home, and the constitution and bylaws thereof, shall be further amended in such manner and to such effect as the international Typographical Union may direct,

SEC. 6. The Board of Trustees of the Union Printers Home shall make its best efforts to provide for rehabilitation of

war veteran members who may be in need thereof.

#### ARTICLE XXIV-WOMEN MEMBERS

SECTION 1. Equal wages and conditions shall prevail for both sexes in every local jurisdiction of the International Typographical Union, subject to the requirements of the laws of the various states as these laws affect women workers. Any member who violates the provision of this section, upon conviction, shall be punished by a fine of not less than \$25, or suspended, as the union may determine, in accordance with International law.

### GENERAL LAWS

1957

#### ARTICLE 1-APPRENTICES

SECTION 1. Apprentices shall not be less than 16 years of age at the time of beginning their apprenticeship. Local unions shall require applicants to furnish adequate evidence of the date of birth. They shall be listed by the sacretary of the subordinate union and they shall serve an apprenticeship period of six years before being admitted to journeyman membership in the union: Provided, That upon request of the local union and employer, and with the consent of the Bureau of Education of the International Typographical Union, an apprentice may be upgraded when he has shown he has applied himself to his work and studies sufficiently to warrant advancement: Provided further. That no apprentice shall be upgraded more than 24 months during his training period. Failure of apprentice members on completion of his apprenticeship period to file his application for transfer to the journeyman roll shall be sufficient for cancellation of his apprenticeship.

Sec. 2. Subordinate unions are prohibited from transferring. apprentice members to journeyman membership until the applicant for such transfer has been certified by the Bureau of Education as having completed the Course of Lessons in Printing, or has received certification of such completion from a school duly accredited by said Bureau of Education: Provided. That the foregoing shall in no wise nullify the provisions of section 3 of this article, or the authority of the President of the International Typographical Union to waive completion of the Course of Lessons in Printing: Provided, completion of the Course of Lessons in Frinting: Provided, further, That unless the provisions of this section have been complied with, no journeyman register number shall be assigned to an apprentice member: Provided, still further. That in the case of an apprentice those time has been interrupted for a period of not less than ninety days, by reason of his having served in the armed forces of the United States or under the National Security Act of 1948, local unions may setablish regulations. establish regulations granting to said apprentice that priority standing, in the chapel in which he has served his time, which would have accrued to him, had not his time been interrupted by his having served in the armed forces; said apprentice to comply with all apprenticeship obligations, including completion of the Lessons in Printing.

SEC. 3. Mailer and machinist apprentices shall be exempt from the requirement that the Course of Lessons in Printing must be completed before transfer to journeyman membership: Provided, however, that upon application for apprenticaship all such apprentices must subscribe for, and complete the Course of Lessons in Unionism within 90 days from date of registration as provided in section 10 of this article.

- SEC. 4. All persons before entering the trade as apprentices shall first be approved by the local union. They must pass a technical examination given by the union's apprentice committee. A physical examination must also be made by a qualified medical examiner, approved by the local union. The medical and other examinations must show fitness and adaptability to the trade. The physical examilitation shall be entered on the medical certificate, printed on the reverse side of the application for apprentice membership which shall be filled and used as such at the beginning of the second year of apprenticeship as provided-in section 7.
- Szc. 5. No apprentice shall leave one office and enter that of another employer without the written consent of the president of the local union, and the date of such change of offices by the apprentice shall be recorded on the books of the union.
- SEC. 6. All local unions are required to include in contracts provisions defining the grade and classes of work apprentices shall be taught from year to year, so that they will have the opportunity of acquiring a thorough knowledge of the trade. No office shall be entitled to employ an apprentice unless it has the equipment necessary to enable instruction being given the apprentice in the several classes of work agreed upon in the contract with the employer to be taught each year.
- SEC. 7. At the end of the first year, if the apprentice proves competent and the foreman and apprentice committee recommend him for apprentice membership, he must be admitted into the union as an apprentice member, and his application blank with the medical examination on the reverse side be forwarded to the finternational Typographical Union Secretary Treasurer for an apprentice register number.
- SEC. 8. Apprentice members shall not have the privilege of voting. From the time of registration until such apprentice members are transferred to the journeyman roll, they shall pay per capita tax and subscription to The Typographical Journal as provided in section 1, article ix, constitution. They shall be exempt from pension and mortuary assessments.
- SEC. 9. Following initiation the apprentice member shall be registered with the Secretary-Treasurer of the International Typographical Union, who will assign a register number.
- SEC. 10. Beginning with the second year, apprentices shall be enrolled in and complete the International Typographical Union Course of Lessons in Printing before being admitted as journeyman members of the union. This course of lessons shall include the course on trade unionism, containing complete information and instruction on the principles of unionism, prepared by the Bureau of Education of the International Typographical Union. Within 90 days from date of

registration the local union must certify to the international Typographical Union Bureau of Education that the apprentice has satisfactorily passed an examination on trade unionism given by the local union's apprentice committee.

SEC. 11. Starting with the second year apprentices are entitled to and must be in possession of an apprentice work-

Sec. 12. Arrangements should be made to have apprening card. tices during the last two years of apprenticeship instructed on any and all typesetting and typecasting devices or any other machinery or equipment which functions as a substitute for or the evolution of the typesetting process in use in the offices where they are employed. Instructions on machines must follow basic trade training on all other work: Provided, That the first year of the two year apprentice training on machines shall be on typesetting machines. Mailer apprentices during the last two years of apprenticeship should be instructed on mailing machines in use in the mailing room,

Sec. 13. Apprentices shall be required to complete the I.T.U. Course of Lessons in Printing before being admitted to journeyman membership, except with the consent of the President of the International Typographical Union. The President of the International Typographical Union shall have authority to cancel the card of any person admitted to membership in violation of any of the foregoing provisions and may impose a penalty not to exceed \$25 on offending

- Sec. 14. Local unions shall provide for the appointment or unions. election of a committee on apprentices. The duties of the committee on apprentices shall be to inquire into the educational qualifications of applicants for apprenticeship, examine each apprentice, to ascertain if he is meeting the necessary requirements called for in the several classes of work specified for each year of his apprenticeship and if after such examination, the committee finds the apprentice has not made satisfactory progress, it shall so report to the union for such action as it is deemed proper to takes to require the apprentices to take needed courses of study and report any delinquency to the union; to compel all apprentices to complete the I.T.U. Course of Lessons in Printing.
  - Sec. 15. A local joint apprentice committee composed of equal representation of the employers and the nation should be formed to make surveys and study, investigate and report upon apprentice conditions. They shall act to enforce the conditions of the agreement covering apprentices and shall have full power and authority any time during the term of apprenticeship to terminate the employment of an apprentice who does not show aptitude and proper qualifications for the work, or for any other reason. This committee shall meet jointly at the call of the chairman of each committee at such time and place as may be determined by them. This committee shall have authority to vary training programs to meet the problems arising because of varying equipment of the shops under contract and shall have authority to

direct temporary transfers of apprentices from one shop to another to accomplish as much all-around training as may be suited to the capacity of the apprentice.

SEC. 16. Local unions shall incorporate in their contracts wit! employers a section containing the necessary requirements to carry out the apprenticeship laws of the Interna-

tional Typographical Union.

Sec. 17. The foreman and chairman of the chapel shall see that apprentices are afforded every opportunity to learn the different trade processes by requiring them to work in all classifications of the trade. When apprentices show proficiency in one branch they must be advanced to other classes of work.

SEC. 18. Local unions shall arrange scales of wages for apprentices in each of the years of their apprenticeship, such scales to be indicated as proportionate to journeymen's scale Apprentices shall be given the same protection as journeymen and phall be governed by the same shop rules, working con-

ditions and hours of labor.

SEC. 19. Local unions are required to fix the fatio of apprentices to the number of journeymen regularly employed in any and all offices, but it must be provided that at least two members of the subordinate union, aside from the proprietor, shall be regularly employed before an office is

entitled to an apprentice.

- SEC. 20. For each additional five journeymen regularly employed an additional apprentice may be permitted: Provided. When four apprentices are employed, an additional apprentice for each ten additional journeymen may be employed, but this additional ratio of one to ten may be varied by contract as may be desired by a subordinate union to meet the needs of particular shops: Provided further, Nothing in this section shall be construed as prohibiting any subordinate union from inserting in the contract a provision that theototal number of apprentices of any office shall be less than four, it is recognized that the introduction of new or substitute processes may make it desirable to exceed the ratios provided in this section. In such instances contracts may be approved containing provisions for more than those-herein specified. The particular number in excess is a matter for collective bargaining.
- Sec. 21. No apprentice shall be employed on overtime work in an office unless the number of journeymen working overtime on the same shift equals the ratio prescribed in the local scale. At no, time shall any apprentice have charge of a department or class of work.
- SEC. 22. The ratio of apprentices to journeymen shall not be increased by hiring new apprentices, when apprentices are called into the military or naval services of the United States or the Dominion of Canada (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the governments of said countries, during the time when such armed forces are engaged in active combat with the military forces of another nation which presents a

threat to the United States or Canada. No new apprentices will be permitted to replace those drafted in the military or naval services of the United States or Canada. Upon again reporting for duty the situations and standing formerly held by the apprentices shall be restored to them. Local unions may permit new apprentices to temporarily replace those in service upon new applicant signing an agreement stating that he is aware that he is taking the place of an apprentice who has been called to service, and that he agrees to vacate the lob upon return of the original apprentice. Local unions, when replacing an apprentice in service, shall secure a state ment from the employer guaranteeing the second apprentice priority on the first opening for a new apprentice and an agreement that the second apprentice's right to work shall not supersede or predate that of the returning servicemanapprentice. The purpose of this section is to maintain the ratio of apprentices to journeymen provided in the contract.

Sec. 23. In filling of apprenticeship vacancies, preference shall be given to apprentice members discharged from the military services of the United States and the Dominion of Canada (or their allies) whose term of apprenticeship has been interrupted because of suspensions, mergers, or consolidations of printing offices, or for other reasons, subsequent

to their induction into such service.

Sec. 24. Apprentice members shall be encouraged to attend meetings of the union and to take part in label committee and label promotional work.

# ARTICLE II-ARRITRATION

SECTION 1. When disputes involving interpretation and enforcement of the terms of an approved contract between local, unions and employers cannot be settled by the parties to the contract the matter may be arbitrated through joint standing committee procedures provided therein.

Sec. 2. Local unions shall not submit the terms of a succeeding contract PROPOSAL to arbitration until first obtaining approval of the Executive Council as to the subjectmatter which may be arbitrated and as to the procedure to

Sec. 3. It is imperatively ordered that the executive offibe followed. cers of the International Typographical Union shall not submit any of its laws to arbitration. Nor shall any subordinate union arbitrate whether or not any General Law of the International Typographical Union is effective.

It is further provided that no joint arbitration . agreement be entered into with an employers' association by the International Typographical Union, unless said agreement shall have first been approved by a majority vote of

the membership in a referendum vote.

Sec. 5. Where vacations have been established by contract, the elimination of such provision shall not be submitted to arbitration.

Sec. 6. When any arbitration procedure to which a local union is committed reaches a deadlock where further action can not result in a conclusion within a reasonable time the local union may request the Executive Council to release it from further obligations under such arbitration procedure or agreement. The Executive Council shall have authority to decide that issue and may so release a local union. This section shall not apply to controversies property before a joint standing committee involving only interpretation of the terms of the agreement. It does apply to matters involving the laws of the International Typographical Union of to interim wage openings whether or not arbitration is provided.

SEC. 7. Subordinate unions shall cooperate with other printing trades crafts in an attempt to establish simultaneous expiration dates and collaboration in scale negotiations.

### ARTICLE III-CONTRACTS

Section 1. Contracts between local unions and employers are collective agreements in which the local union as such is a contracting party with an employer or association of employers. Such agreements shall contain a clause excluding the International Typographical Union as a party thereto. It is the obligation of the local union to observe and enforce terms of the contract. The local union as a contracting party has authority to determine differences between its members concerning their rights under contract, subject to appeal as prescribed by the laws of the union. Where the local union has by contract prescribed a method of determining differences between the employer and the local union as to interpretation and enforcement, such method shall be followed. Subordinate unions of the International Typographical Union have a long and honorable history of compliance and fulfillment of all contract commitments. It is required that where contract commitments have been made, such commitments are paramount and must be honored by the local unions parties thereto, as a matter of union policy only, subject to the limitations stated in the approval clause of such agreements without any assumption of liability there-under by the International Typographical Union. This obli-gation cannot be considered to be mitigated or absolved because of picket lines established without authority pro-vided in the local contract and as provided in article xix. bylaws. The laws of the local union not affecting wages, hours or working conditions and the laws of the International Typographical Union shall not be submitted to arbitration.

Where the contract between the local union and employer those not provide a method for the adjudication of differences as to interpretation and enforcement the employer may require the International Typographical Union to interpret the obligations of the local union, previded said contract has been approved by the president of the International Typographical Union as conforming to the laws of the International Typographical Union.

It is our policy that we continue to maintain our long standing reputation for integrity in performing our contracts

and carrying out our union commitments.

It is our policy that we maintain our historic rights and prerogatives, to which we are entitled and which we have

enjoyed for more than a century. We believe that the harmony of our relations which has prevailed, almost without interruption for many decades between our members, our local unions and their employers, can continue in the future, as in the past, and it is our

policy to try to continue it. We express this belief despite the fact that ill considered legislation has recently been enacted, the effect of which is proving to be disastrous to stable and orderly labor-manage-

ment relations. We confidently assert that there are certain provisions in the Labor Management Relations Act of 1947 that are unconstitutional and invalid, that certain provisions of it are impracticable and unworkable and that a great deal of it is inequitable and unjust to organized labor.

We believe that as the provisions of this act become generally known, the law will in time be amended to eliminate

its defects and inequities.

There should not be, and will not be, any attempt on the part of the International Typographical Union, or its subordinate unions to violate any valid provisions of law, Federal or state. There will continue to be earnest efforts on the part of those unions to achieve conditions and agreements granting the fullest measure of protection and advantage possible under law. These unions will make every effort to avoid the signing of agreements which may adversely affect their interests by falling short of this goal. Our members may accept employment only from employers who are willing to employ them under conditions consistent with this policy.

It is our policy that local unions do not seek to qualify as representatives under the Labor Management Relations Act. except in special cases, after careful analysis and approval by the Executive Council, and that they do not seek to execute so-cailed "union shop" contracts. The process provided by the Labor Management Relations Act for that type of contract is too lengthy and cumbersome and there are features of such a "union shop" that are unacceptable to our members. Neither may our unions enter into "no strike" agreements or contracts of any kind without approval of the Executive

Council. Local unions should not file any unfair labor practice charges or petition for investigation or representation, without first consulting the President of the International Typographical Union and obtaining approval of the Executive

Council. The Executive Council is hereby authorized to interpret, construe and enforce the above policy.

Sec. 2. No local union shall sign a contract guaranteeing its members to work for any proprietor, firm or corporation, unless such contract is in accordance with international law and policy and approved as such by the International President. The officers, committees and members are expressly prohibited from submitting to a union for vote or voting on any proposal of an employer or committee for a contract either written, verbal or implied, or any understanding whatsoever which has not previously been approved by the International President as being in compliance with I.T.U. laws and policy and not in violation of civil law. (a) No member holding active membership in any local union shall sign an individual or private contract with any employer, agreeing to work for any stated length of time, wages or conditions. The union alone has the power to contract for conditions, wages and hours. (b) No union or individual member shall agree to any pension plan which provides for compulsory retirement at any age. (c) No member shall be required to submit to a physical examination as a condition of employment.

Sec. 3. No local union shall enter into negotiations with any proprietor, firm or corporation operating a plant in another jurisdiction which does not actually have a plant in operation or have equipment for such a plant in its particular jurisdiction without first communicating with and having the approval of the International President, and if the contemplated plant is being removed from another jurisdiction, the local union shall also contact the local union or unions in which the plant or plants are now operating.

Sec. 4. Subordinate unions are required to submit to the International President for review and approval, as complying with requirements of International Union laws, all proposals for a new contract, alteration, amendment or extension of an existing contract in duplicate before presentation to the employer. No contract shall provide for automatic renewal on failure to notify either party thereto of desire to change or terminate the contract.

Sec. 5. Subordinate unions at all times have the right to define as struck work composition and mailing room work executed wholly or in part by non-members, and composition, mailing room, or other work coming from or destined for printing concerns which have been declared by the union to be unfair, after which union members may refuse to handle the work classified as struck work.

SEC. 6. Violations of contracts or scales of prices on the part of an employer or his representative should be brought to the attention of the foreman in charge of the department. and if not satisfactorily adjusted, are to be taken up by the officers of the union and the employer.

Sec. 7. No local union shall sign a scale of wages with an overtime clause calling for overtime on any certain day at a rate less than paid for overtime on all other days. Local unions shall incorporate a clause in their scales which provides for the payment of overtime at a rate not less than price and one-half, based on the hourly wage paid.

Sec. 8. Members of the International Typographical Union shall not be permitted to operate a portion of a printing plant, or an entire printing plant, for a portion of the time, under contract or sub-contract. Members can only engage in

business as employers when they own and control the establishment. This shall not apply to bona fide recorded leases for a term of one year or more under the terms of which the member-lessee exercises control over the establishment and price of the products thereof. No member of the International Typographical Union can evade any of its laws as applying to members generally by having transferred to himself a nominal amount of stock in a company or corporation organized for the purpose of conducting a printing plant; nor does the holding of the position of director in such company or corporation constitute him a proprietor unless he be able to prove that he is a bona fide stockholder therein and that his block of stock in the company or corporation bears such relation to the whole capital stock as to show that the partnership is a genuine business transaction.

SEC. 9. Where phyholders, in addition to proofreaders, are employed, local unions are directed, where possible, to incorporate in the contracts a provision that members of the union be employed as such copyholders and that a scale be maderor sixth work.

SEC. 10. Contracts or wage agreements must provide that no member shall be employed for less than a full shift as specified in the contract except when discharged for cause or when excused at the member's own request.

SEC. 11. Local unions must incorporate in contracts a provision that all composing room work appertaining to printing and the preparations therefor, shall be done by journeymen or apprentices, and must further provide for the elimination of all so-called miscellaneous of composing room helpers by agreement that as vacancies occur they shall be filled (if needed) by journeymen or appsentices.

SEC. 12. It is the unalterable policy of the International Typographical Union that all composing and malling room work or any machinery or process appertaining to printing and malling and the preparations therefor belongs to and is under the jurisdiction of the International Typographical Union. Subordinate unions are bereby directed to reclaim jurisdiction over and control of all composing and mailing room work or any machinery or process appertaining to printing and the preparations thereof now being performed by non-members.

SEC. 13. Subordinate 'nions shall incorporate in PROPOSED coltracts a clause providing for holidays with pay; annual vacations with pay; severance pay of not less than two weeks' pay for each year of priority in the office for all members affected by suspension or mergers, hospitalization and pay allowances for sickness or accident; and severance pay of two weeks' pay for each year of continuous priority for situation holders laid off to reduce the force.

SEC. 14. Subordinate unions shall provide in PROPOSED contracts that night work shall be paid for at not less than 15 per cent over the day scale.

SEC. 15. Subordinate unions must incorporate in PROPOSED contracts a vacation provision that when a member ceases employment for any reason be shall receive pay for accumulated vacation credits.

SEC. 16. Subordinate unions shall incorporate in PROPOSED contracts a clause which provides for the payment of overtime at a rate not less than double time, based on the hourly

wage rate.

### SCALES

SEC. 17. Work in foreign languages shall be at the scale rates of the particular union having jurisdiction: Provided, That in no case shall English composition be at a lesser rate than that of the typographical union. Nor shall foreign composition in English offices be done at a lesser rate or longer hours worked thereon than is in vogue in offices under the jurisdiction of such foreign language union.

SEC. 18. No member shall represent proprietors in scale negotiations, except with the consent of the local union. This section shall also apply to holders of honorable withdrawal

cards.

SEC. 19. The International Typographical Union relegates to subordinate unions authority to establish in contracts provisions governing the disposal of extra work. In filling regular situations contracts must provide substitute oldest in continuous service shall have prior rights in filling the first vacancy.

Sec. 20. Subordinate unions must insert in PROPOSED contracts provisions that priority members shall have choice of new shifts, new starting times, new off-days and choice of vacation schedule, but such provisions shall not prevent the priority substitute from acquiring a situation to which his

priority entitles him.

Sec. 21. Subordinate unions must incorporate in contracts a provision fixing the hours designating day work and night work. Day work shall be between 7 a. M. and 6 P. M. Night work shall be between 6 P. M. and 7 A. M. For shifts which do not begin and end within the hours specified for day work. not less than the night rate shall be paid.

SEC. 22. Subordinate unions shall incorporate in PROPOSED contracts and wage agreements a clause providing for shorter hours, with still shorter hours on the night shift than on the day shift until the unit of thirty hours a week has been

· reached.

Sec. 23. Subordinate unions must include in contracts or commitments a provision that members may absent them-selves from the shop during voting hours on primary and general election days without being subject to discipline.

SEC. 24. Subordinate unions shall include in all contract PROPOSALS a provision seeking retirement pensions.

### ARTICLE IV4-DEPARTMENTS

SECTION 1. The recognition of departments shall be optional with local unions. Establishment of departments shall be by agreement and such departments as are recognized shall be enumerated.

SEC. 2. When departments are recognized priority shall date from time of accepting work in the department either by original employment or permanent transfer.

SEC. 3. When departments are not recognized an employe shall not be discharged to reduce the force or for incompetency while there is work in the office he is competent to per-

form and to which his priority entitles him.

SEC. 4. When departments are recognized by agreement no transfers shall be made except in emergencies: Provided, When all available extras are hired in any department transfers may be made into that department.

- Sec. 5. Regulations applying to transfers are for the purpose of preventing discrimination in the hiring of members seeking work as extras. The hiring of more members than are needed in one class of work of department and later transferring them to work which could have been done by others entitled thereto because of their priority is discriminatory. It is also discriminatory to transfer a situation holder or extra when such transfer results in members not being hired who have priority superior to those transferred.
  - SEC. 6. Transfers are not required to permit members to exercise priority upon a vacancy, either regular or extra, which the member is not qualified to fill: Provided, Transfers made for the convenience of the office shall be made to permit cancellation of overtime or observance of the five-day law and for the convenience of members desiring to engage a substitute.
  - SEC. 7. Members transferred to a class of work upon which they do not claim competency shall not be discharged for incompetency nor shall a foreman be permitted to make transfers which are discriminatory or for the purpose of depriving other members of work to which they are by priority entitled.

# ARTICLE V-FOREMEN

SECTION 1. In union shops the foreman is the only recognized authority. Assistants may be designated to direct the work, but only the foreman may employ and discharge. In filling vacancies the foreman shall be governed by the provi-

sions of article x, general laws.

- Sec. 2. The foreman may discharge (1) for incompetency; (2) for neglect of duty; (3) for violation of office rules which shall be kept conspicuously posted, and which shall in no way abridge the civil rights of employes, or their rights under accepted international Typographical Union laws. A dis-charged member shall have the right to appeal in accordance with the laws of the International Union as provided in the contract, and shall have the right to challenge the fairness of any office rule which is applied to bring about his discharge.
  - SEC. 3. When it becomes necessary to decrease the force in an office where departments are not recognized it shall be determined upon what class of work the reduction is required. The member with lowest priority standing in the office engaged upon the class of work indicated shall be discharged first. Provided, The member to be discharged may claim any

other work in the office he is competent to do which is being performed by a member with lower priority standing: Provided, further, A member claiming other work to avoid discharge to reduce the force shall not be exempt from discharge if incompetent.

SEC. 4. In offices where departments are recognized a decrease in the force shall be accomplished by discharging first the member holding a situation who has the lowest priority standing in the department in which decrease is necessary.

SEC. 5. A member discharged to reduce the force shall be re-employed, either as regular or extra, upon work he is competent to perform in the order of his priority standing.

SEC. 6. In offices where departments are recognized a member declared incompetent in one department shall not be denied the privilege of seeking employment in another department nor shall he be barred for incompetency within the meaning of Section 8, below, while there is work in another department he is competent to perform.

SEC. 7. When a member is discharged for any reason, he may demand and the foreman shall give in writing the reason for discharge: Provided, Such demand shall be made within seventy-two hours after member is informed of discharge.

- SEC. 8... A member who believes he has been illegally or unjustly discharged shall have the right to appeal to the subordinate union in the manner provided by the laws of such subordinate union. If the subordinate union orders reinstatement the decision must be complied with until reversel. Either party may appeal to the Executive Council as provided herein: Provided, When a subordinate union has made specific provision in its contract for reference of controversies over discharge to a joint agency, the dispute shall be decided as provided in the contract. A member who has been discharged for any reason other than to reduce the force may be reinstated at the option of the foreman, or by proceeding in accordance with the terms of this section. A member discharged for incompetency, neglect of duty or a minor reason shall not be denied the privilege of seeking work in the office for a period longer than six months.
- SEC. 9. A foreman shall not designate any particular day, nor how many days a member shall work in any one week: Provided, The member must engage a substitute when absent. Any member covering a situation is entitled to and may employ in his stead whenever so disposed any competent member of the International Typographical Union without consultation or approval of the foreman: Provided, Local unions may adopt laws requiring the employment of substitutes in the order of their priority standing; or for specified periods in severe unemployment emergencies, with the consent of the Executive Council, may establish provisions for equitable distribution of subbing among eligible substitutes.

Sec. 10. A foreman shall not be permitted to select his force from day to day, but must have such number of regular situations as are necessary to meet requirements and to

reduce employment of extras to a minimum. Employment other than for regular situations shall be classed as extra

SEC. 11. All persons performing the work of foremen or work. journeymen, at any branch of the printing trade, in offices under the jurisdiction of the International Typographical Union, must be active members of the local union of their craft and entitled to all the privileges and benefits of

membership. SEC. 12. The International Typographical Union recognizes only two classes of labor in union shops, journeymen

and apprentices.

SEC. 13. Where contracts or agreements provide for holidays with pay, the foreman shall not be permitted to change regular off-days to such holidays in order to evade payment for the holiday.

# ARTICLE VI-LABELS

SECTION 1. Local unions, acting as agents for the International Typographical Union, shall loan labels for use or cause the same to be used in such offices and by such employing printers as fully comply with the rules and regulations of the International Typographical Union and said local unions, and also sign a label contract. The Executive Council of the International Typographical Union shall have the typographical union label withdrawn from all printing establishments employing members of antagonistic organizations.

SEC. 2. The typographical label shall be supplied to local unions by the Secretary-Treasurer of the International Typographical Union in such form as may be deemed expedient, or matrices may be purchased through said Secretary-Treasurer, the cost thereof to be paid by the local union, but the matrices to remain the property of the International Typograpical Union and to be surrendered by the local union on order of the International Executive Council.

SEC. 3. The label shall be used only under contracts in either newspaper or commercial shops providing for an hourly rate of at least \$1.50 per hour, and under which the contract, requires members to work no more than a five-day

forty-hour week.

Sec. 4. Any office that opposes organization activities by the International Typographical Union and/or local unions of employes performing work coming under jurisdiction of the International Typographical Union shall not be permitted use of the typographical label.

# ARTICLE VII-MACHINES

SECTION 1. None but members of the International Typographical Union shall be permitted to operate typesetting, typecasting, linecasting, phototypesetting or material-making machines and all devices used to process the product emanating from said machines. None but members shall be permitted to operate, maintain and service any mailing machinery or equipment when used on work under the jurisdiction of the International Typographical Union. The International Typographical Union also claims jurisdiction over the operation of all duplicating machines; such as typewriters and variations, etc., the product of which is a substitute for type used in the printing and publishing process.

Sec. 2. In machine offices under the jurisdiction of the International Typographical Union, no person shall be eligible as a "learner" on machines who is not a member of the International Typographical Union. The time and compensation of "learners" shall be regulated by local unions: Provided, Local unions may grant permits to apprentices during the last two years of their apprenticeship, during which they may learn the machines, and such apprentices shall be subject to the rules and regulations of such local unions.

SEC. 3. Subordinate unions are prohibited from establishing piece or bonus scales and members of the union are prohibited from accepting a fluctuating basis of compensation which in effect constitutes a piece or bonus scale such as a wage or salary computed on the basis of production.

SEC. 4. No member of the International Typographical Union shall engage in speed, record or other contests, either by hand or on machines. Violation of this law shall be punishable by a fine of not less than \$25, or suspension.

Sec. 5. It is the unalterable policy of the International Typographical Union that only members in good standing shall be employed in installing, operating, maintaining, servicing and repairing all typesetting, linecasting, typecasting, phototypesetting, tape perforating and material-making machines and all other mechanical devices used in composing, imposing, processing and casting of type, type matter, slugs and other material of any kind whether operated manually or automatically and wherever located.

SEC. 6. It is the policy of the International Typographical Union that only members shall be employed upon all work necessary to process the product emanating from phototypesetting machines, including its development, waxing, paste make-up, ruling, photo-proofing, correction and alteration of the paste make-up serving as the completed copy for the plate-making camera.

SEC. 7. All duties performed in the paste make-up operation using reproduction proofs are comparable to and supplant make-up and imposition work in conventional composing room operations and said paste make-up duties constitute composing room work under the jurisdiction of the International Typographical Union. Only members of the union shall be employed upon such work. Paste make-up functions include all work involved in producing completed copy for the camera in the plate-making operation, including the waxing, cutting and pasting into position of reproduction proofs, the pasting into position of all hand-lettered, illustrative, border and decorative material constituting a part of the copy, all ruling, the taking of proofs on any

substance by any method or process prior to the making of a plate, and any other work involved in producing a completely pasted-up layout, job, advertisement or page.

SEC. 8. It is the policy of the International Typographical Union that in shops wherein no other union actually is exercising jurisdiction in the letterpress or offset plate-making processes that subordinate unions should contract for and their members should perform said work.

# ARTICLE VIII-MACHINE TENDERS AND MACHINESTS

SECTION 1. All machine tenders and machinists, members engaged in the adjustment, repair and maintenance of all mechanical devices used in the performance of composing and mailing room work, shall be members of the International Typographical Union, and the local unions shall provide and maintain a scale covering such positions, and they shall at all times be under the control and amenable to all laws and regulations of Said local unions. Porters shall only be allowed to melt metal and put metal around machines. They shall not be allowed to start, repair, oil, clean, change or adjust machines, or clean space bands and plungers. All work pertaining to maintenance and care of machines to be performed exclusively by machine tenders who are journeymen or apprentice members of the International Typographical Union.

# ARTICLE IX-PLATE MATTER AND MATRICES

SECTION 1. The International relegates the use of plates and plate supplements matter to subordinate unions, with power to act.

SEC. 2. The interchanging, exchanging, borrowing, lending or buying of matter, either in the form of type or matrices, between newspapers, between job offices, or between newspaper and job offices, or vice versa; not owned by the same individual, firm or corporation, and published in the same establishment, is unlawful, and shall not be allowed, unless such type or matrices are reset as nearly like the original as possible, made up, read and corrected and a proof submitted to the chairman of the office. Transfer of matter between a newspaper office and a job office, or a job office and a newspaper office, where conducted as separate institutions, and from separate composing rooms, owned by the same individual, firm or corporation, is not permissible unless such matter is reset as nearly like the original as possible, made up, read and corrected and a proof submitted to the chairman of the office: Provided, That where an interchange of matter from an English publication to a foreign language publication, or vice versa, is desired, under the provisions of this section, such exchange shall be regulated by agreement between the employers and local unions interested. The time limit within which borrowed or purchased matter, or matrices, are to be reset shall also be regulated by agreement between the employers and local unions. This section shall not apply to original commercial composition purchased from union commercial trade composition plants or other union composing rooms when such composition is an integral part

of production of a particular commercial job.

Sec. 3. All composition or plates, mats and reproduction proofs or other forms of prints of composition produced in union offices may bear the identification insignia referred to in article xv, section 4; constitution. The logotype may be used, in the margin of proofs and the punch on the margin, face or back of each plate or mat.

SEC. 4. Subordinate unions may include in contracts provisions requiring reproduction, or exempting from reproduction; national (general) advertisements, plates and plate supplement matter, printed supplements, type, plates and matrices other than local advertisements.

## ARTICLE X-PRIORITY

SECTION 1. Persons considered capable as substitutes by foremen shall be deemed competent to fill regular situations, and the substitute oldest in continuous service shall have prior right in the filling of the first vacanty. This section shall apply to incoming as well as outgoing foremen.

SEC. 2. Subordinate unions shall establish a system for registering and recording priority standing of members in all chapels, which shall be conspicuously posted or kept in a place within the chapel accessible to members at all times. The priority standing of a member shall stand as recorded.

- SEC. 3. No member shall hold priority in more than one office nor shall a member retain priority standing or a situation in an office if he performs work over which the International Typographical Union has jurisdiction, either supervisory or mechanical, in another printing office whether or not the member is interested financially or otherwise in said office: Provided, That in the event of a strike or lockout involving a substantial number of members, the local union where such strike or lockout exists may adopt a law that will provide that members involved may establish priority rights in another chapel in the same jurisdiction, and in the event of a settlement of said strike or lockout, may relinquish priority so established and be granted their former priority standing in the struck or locked-out plant: Provided further, Subordinate unions may establish regulations whereby members may be permitted to accept temporary employment in another office without loss of situation or priority standing, and under such regulations may excuse members who accept such temporary work from giving it out as overtime to any member who refused to accept such temporary work.
  - Sec. 4. Local unions may establish regulations permitting a situation holder, or a substitute having established priority standing, to engage in pursuits other than at the trade for a period not to exceed ninety calendar days in any twelvemonth period without loss of situation or priority: Provided, Members exercising this privilege shall employ the priority substitute competent to perform the work.

SEC. 5. Any member engaged to serve the International Typographical Union, a subordinate union or to perform work in the interest of the organized labor movement, or any member incapacitated by illness, shall not be deprived of priority standing while so employed or so incapacitated. Such member shall employ while absent the priority substitute competent to perform the work if one is available. The situation holder shall not suffer loss of situation or priority in the event such a substitute is not available. After thirty calendar days the situation shall be filled by priority sub, and considered in the category of a new situation. Upon reporting for duty full priority rights shall be

restored. Sec. 6. Available priority substitute competent to perform the work must be employed on any new situation created because of the absence of a situation holder from his or her situation for more than thirty calendar days, and whose priority is protected under the provisions of other sections of I.T.U. laws or contracts: Provided, Should a substitute with greater priority become available such substitute shall be placed on said situation: Provided, further, Local unions may establish by contract, for the purpose of avoiding mul-tiple changes in preferred shifts and starting times, for the employment of the available priority substitute after thirty calendar days and continuing to but not more than ninety calendar days from absence of situation holder.

SEC., 7. Members admitted as residents of the Union Printers Home and members of the armed forces of the United States and Canada who qualify for assessment exemption as provided in section 1 (j), article ix, constitution, or those who may engage in war work for the American Red Cross, or other similar accredited agencies shall have their priority and/or situations protected for such time as they

are so engaged.

SEC. 8. Members of the Organized Reserve of the armed forces of the United States or the Dominion of Canada, or other such organizations, shall have their priority protected while serving tours of active duty with such organizations in time of peace: Provided, when a member's priority is protected under section 7 or 8 of this article, he shall be considered to have full time employment at another occupation and shall not be considered eligible for employment at the printing trade except with the permission of designated officers of the local union when all available substitutes have been hired and such members are eligible to cancel accumulated overtime of other members only when voluntarily granted.

SEC. 9. A foreman employed from outside the shop shall accumulate no priority standing during the period he con-

tinues as foreman.

SEC. 10. A member with established priority in an office may work for the same firm performing work other than mechanical duties without loss of priority in the composing room or mailing room.

# ARTICLE XI-FIVE-DAY LAW; OVERTIME

SECTION 1. In all offices under union jurisdiction the unit of hours constituting a regular shift shall not exceed eight and no subordinate union shall enter into a contract which provides for a workweek in excess of forty hours.

- Sac. 2. No member performing mechanical work as journeyman shall be required, or permitted, to hold a situation composed of more than five days, or five nights, or combination of days and nights totaling more than five, within a financial week.
- Sec. 3. Five shifts shall constitute a situation and all time worked in excess of five times the unit of hours constituting a regular shift shall be canceled by employment of a substitute as soon as one becomes available.
- SEC. 4. Time worked in excess of the limits provided in the above rections shall accumulate as specified in section 10 of this article, and failure of a member to cancel such excess remember to cancel such excess render the member subject to a fine of one day's pay at the scale of the union. Each shift the member fails to employ a competent substitute who is available shall constitute a separate offense.
- SBC. 5. Members who do not limit themselves to five shifts within the financial week in accordance with the provisions of section 2 of this article shall be assessed a day's pay for each offense. Where the local union fails to apply the penalty the Exegutive Council shall levy an assessment of a day's pay against each member for each violation. Where the local union levies the fine it shall be paid into the local treasury. All fines, assessed by the Executive Council as penalties for violations of this article shall be forwarded to the International Secretary-Treasurer. Members who fall, or refuse, to ray any sum levied by the Executive Council shall be suspended and lose all rights and benefits of membership.
- SEC. 6. No reduction of the five-day workweek may be ordered by a local union, nor shall special assessment for out-of-work relief be levied by such union in excess of 3 per cent of earnings: Provided, That all proposals for special assessments must provide a specific date on which collection of such special assessment shall be discontinued.

#### OVERTIME

SEC. 7. Members required to work in excess of the unit of hours established as a regular shift must receive the overtime rate for all such excess time. The overtime rate shall be not less than one and one-half times the employe's hourly rate for the shift on which work is performed. Foremen performing executive or clerical work exclusively are not subject to the overtime laws. Foremen who do any mechanical work at any time are subject to the overtime laws. In extreme emergencies, such as fire, flood or disaster, the overtime rate may be waived by the subordinate union as the contracting party.

SEC. 8. 'Not less than time-and-one-half of the individual's hourly rate of pay shall be paid for any shift worked in except of five within a financial week. When a member is required to work on a regular off-day or off-night not less than the individual's overtime rate shall be paid for such

work performed. Sec. 9. When any situation holder accumulates overtime equal to the unit of hours established for a regular shift he shall engage a competent substitute as soon as one becomes available for the purpose of canceling such overtime: Provided, It shall not be mandatory that any situation holder cancel more than three days' accumulated overtime in any one financial week nor shall it be mandatory that any situation holder cancel accumulated overtime on a holiday which falls within the five-day workweek and for which premuim pay is provided for by contract. Holidays or time lost through "begging off" shall not cancel overtime. When more than one substitute is available the one with the most accumulated shifts of overtime must be regarded as unavailable unless there is enough work to be given out by the office or situation holders to employ all substitutes: Provided, No substitute shall be restricted on either of the first two shifts for which he accepts work during a financial week, nor shall premium shifts be included in this calculation. A substitute cancels a shift of overtime on any day, up to five days, he does not work in a financial week. Any days worked in that week shall be deducted from said five days.

SEC. 10. Overtime shall accumulate indefinitely until it shall have accumulated to the extent of the unit of hours established for a regular shift unless canceled by the employment of a substitute: Provided, Subordinate unions shall specify the period, which shall not be less than sixty (60) days, overtime shall be accumulative after it reaches the unit of hours established for a regular shift as specified above in this section. It shall also be mandatory that each local union adopt laws requiring posting of overtime in all chapels under its jurisdiction and shall provide that overtime worked outside the place of regular employment must be posted in the chapel where priority is held or in the chapel where the member is most regularly employed in the event priority is not maintained in any particular chapel.

Spc. 11. Any member having accumulated overtime to give out who fails or refuses to employ an available competent substitute, or who attempts to evade the overtime law, shall be punished by a fine of not less than one day's pay for each offense. Where the records show violation or evasion the fine may be arbitrarily assessed. It is mandatory that local unions impose and collect the fine for which provision herein is made and with it compensate substitutes who suffer loss of employment through violation of sections 9 and 11 of this article.

SEC. 12. Where members work during a regularly scheduled vacation period and receive pay in addition to vacation pay for such time worked, such time worked shall be considered as overtime at the ratio of day for day and shall be laid off in accordance with the local and International laws governing overtime.

SEC. 13. In offices where preferred situations are added or reduced in priority order, local unions shall have authority to make regulations to accomplish the following purposes in

the following order:

1. To meet contract requirements by making substitutes available to fill situations in the office in which they show for work, and to bar from the office, by order of the local union, any substitute who refuses to accept a situation he is competent to fill, for such period of refusal.

2. To determine equities as between members bearing the

burden of overtime.

3. To cancel the priority standing of any substitute when he refuses a situation he is competent to fill and to provide . that such substitute shall not be allowed to establish new priority in the office for a stated and continuous period not to exceed six months.

Such regulation shall not set aside the obligation of members to give out overtime, but may affect a substitute's avail-ability for cancellation of overtime on specified shifts.

The regulations of a local union as above authorized shall be interpreted and applied or repealed by the local union and shall not be subject to appeal to the Executive Council or Convention.

# ARTICLE XII-SUBLIST AND CONTROL OF WORK

SECTION 11. Establishing or maintaining situations composed of less than five shifts in offices which operate five, six or seven days, thereby creating and controlling extra work constitutes the operation of a sublist and is prohibited.

Sec. 2. Laying off a situation holder and employment of another member as extra to perform work to which the situation holder's priority and competency entitle him is

prohibited.

Sec. 3. Violation or evasion by a foreman of either sections 1 or 2 of this article shall be reported by the chapel chairman to the president of the local union, and shall be punishable by a fine of \$25, which may be assessed by the president of the subordinate union. When such fine is levied it hust be paid pending appeal to the subordinate union and the Executive Council. Any chapel chairman failing to report the violation of these sections shall be fined \$25.

SEC. 4. Sections 1, 2 and 3 shall be posted in all chapels and enforced by all unions under the jurisdiction of the

International Typographical Union.

## ARTICLE XIII-TYPE-STANDARD

SECTION 1. A subordinate union can not alter or amend the standard of type adopted by the International Typo-graphical Union. The following is to be the alphabetical scale for the measurement of type cast on the point system: 12-point to 9-point, inclusive, 13 ems; 8-point and 7-point, 15 ems; 54-point, 16 ems; 5-point, 17 ems; 542-point, 16 ems; 5-point, 17 ems; 442-point, 18 ems. All fonts excéeding the standard are to the benefit of the compositor, and no deductions or allowances

can be made owing to such excess. In considering whether a font of type is up to the standard, the letters to be measured are the lower case letters from a to z, inclusive, and these only—the twenty-six letters of the alphabet; and the letters c, d, e, i, a, m, a, h, o, t, a, and r shall be equal to at least one-half of such measurement. Where type shall be cast upon a larger body than the face (6-point face upon a 7-point body), it shall be measured as the face; or where it shall be cast upon a smaller body than the face (as 10-point face upon a 9-point body) it shall be measured as the body. Type cast in such a manner as practically to produce leaded matter without the use of leads shall be measured as type the next size smaller than the body in which it is cast.

# ARTICLE XIV-PUBLIC LAW

Section 1. In circumstances in which the enforcement or observance of provisions of the General Laws would be contrary to public law, they are suspended so long as such public law remains in effect.

# RESOLUTIONS

### 1957

 That it is not contrary to the policy of the International Union for our members to refuse to patronize an establishment which has been declared unfair, even though said establishment employs in part union men.

2. That the membership give its best endeavors toward

persistent local label work.

3. That chairmen of offices under the jurisdiction of subordinate unions shall recognize the current working cards of traveling inspectors and repairmen of typesetting machine companies, in so far as may be necessary to permit of the repair or inspection of machines.

4. That the International Typographical Union recommend to the subordinate unions that wherever possible plots be secured in cemeteries for their locals to the end that the graves of our dead may be distinguished from other graves and that suitable shafts be erected on same.

5. That the membership of the International Typographical Union is urged to contribute annually on May 12 the sum of \$1.00 to the Home endowment fund; that all contributions be collected through regularly established dues collecting agencies; that all collections be deposited, without commissions of any kind, in the Home endowment fund, and the proper officers be required to include in their reports as at" present the amounts added and the total amount of the Home endowment fund.

6. That the International Typographical Union protests and goes on record as being opposed to the vocational de-partments of our different public school systems competing in the commercial field and seeks the discontinuance of this

very unfair trade practice.

7. That the International Typographical Union in convention assembled sees on record urging local Allied Printing Trades Councils, in localities where mailers' unions exist, to prohibit the use of the union label on publications and advertising circulars, on which mailers' work is to be performed. by other than union mailers.

8. That those members whose records at I.T.U. Headquarters show them to have continuous membership in the I.T.U. for a period of not less than forty (40) years shall be eligible to receive recognition of such membership by the presenta-tion to such members of a suitable emblem or jewel to indi-cate that the member has been in continuous good standing with this organization for at least forty (40) years. The Secretary-Treasurer of the I.T.U. shall keep a supply of these emblems on hand at all times for sale to local unions at cost. Presentation of these emblems shall be restricted to members of the union only and cannot be conferred without authority of the Executive Council or granted to any member against whom charges are pending. The I.T.U. Executive Council is also empowered to sell such suitable emblem to those members of the I.T.U. whose regards show they are entitled to such recognition. Also that the members of fifty (50), sixty (60) and seventy (70) years' continuous good standing be issued an emblem designating such continuous good membership in the same manner as above provided.

9. That locals affiliate with local Central Bodies and State Federations of Labor and Congress of Industrial Organi-

rations.

10. That the 94th convention endorses the credit union idea and urges all Typographical Unions whose members are not now served by a credit union, take steps to set up a credit union to aid their members.

11. That local unions of the International Typographical Union be urged to set up committees whose desire and purpose will be to discuss and attempt to resolve the problems which affect in equal measure all crafts whose members are

employed in the printing trades industry.

12. That the International Typographical Union recommends to all subordinate unions that the activities of joint apprenticeship committees be expanded to provide for the development of skills of journeymen and apprentices alike, enabling them to acquire the degree of proficiency necessary to perform all composing room and mailing room work and the preparation therefor.



# CONVENTION LAWS

#### 1957

## ARTICLE 1-CONVENTION

SECTION 1. The convention shall assemble at 9 o'clock a. M. on the first day of meeting, and afterward shall meet and adjourn at such times as may be fixed by a majority of the members present. The first convention session shall be opened with pledge of allegiance to the flag of the United States (Canadian members exempt).

SEC. 2. After the first day, the convention shall remain in session not less than six hours per day until such time as the business shall have been completed. Provided, The convention may, by majority vote, adjourn early for special occasions.

SEC. 3. The selection of place of meeting shall be held on the fourth day of the season at 11 a. M.; the nomination shall be made on the previous day; the vote shall be by printed ballot, the said ballots to contain the names of all the cities or towns put in nomination, the ballots to be distributed thirty minutes before election; the town or city voted for shall have a cross placed opposite its name; at 11 o'clock on the day of election the roll shall be called, and each delegate shall deposit his vote in a receptacle provided for that purpose; if a result is not reached on the first ballot, the town or city receiving the least number of votes shall be dropped, and balloting shall continue until a selection is made. All expenses of such election shall be borne by the International Typographical Union.

SEC. 4. No person other than duly elected delegates and officers and persons invited to do so by the President shall be accorded the privilege of the floor during the sessions of the International Union; except by unanimous consent of the convention; but, when requested a representative of the American Newspaper Publishers' Association, the Union Employers Section, Printing Industry of America, Inc., shall be heard on important changes in the laws affecting their

SEC. 5. No printed matter shall be allowed to be distributed in any convention of this union unless it bears the union label:

SEC. 6. A majority of the members in attendance on the first day of any session of the International Typographical Union shall be necessary to form a quorum for the transaction of business on any day during the Convention.

#### COMMITTEES

Sec. 7. As soon as practicable after the election of delegates to the International Typographical Union by subordinate unions, and at least thirty days before the meeting of the convention, the President or President-elect who will preside at the convention shall appoint a committee on laws, to be composed of seven delegates-elect. To this committee the Executive Council shall submit such information, data and propositions as shall be deemed necessary to amend and im prove the Constitution, Bylaws and General Laws. It shall be competent for any subordinate units, or delegate-elect, to submit such information, data or proposition.

SEC. 8. The committee shall meet at the city where the International Union is to convene at least five days before the beginning of the sersion, and shall proceed sauduously to consider all such information, data and propositions. It shall submit a printed report in full of all propositions favorably acted upon and the full text of all propositions adversely acted upon. To this committee all amendments submitted during the session shall be referred without debate. It shall have leave to sit during the session, and shall have the right to report at any time to the convention.

Sec. 9. The credentials of the above committee shall be

passed upon by the Executive Council.

SEC. 10. The President shall, immediately after the roll call on the first day of the convention, appoint the following

standing committees: (a) A Committee on Returns and Finances.—To which shall be referred for review the report of the Secretary-Treesurer. This committee shall make an examination of the financial status of the International Union and shall inspect and report upon all checks, drafts and other assets of the organization in the hands of the Secretary-Treasurer, as shown by his report. To this committee shall be referred all propositions involving an expenditure of money that are presented during the session of the convention.

(b) A Committee on the Union Printers Home.—To whom shall be referred all business relating to the Home.

(c) A Committee on Subordinate Unions.—To whom shall be referred all petitions, memorial, and communications from said unions, and such other matters as this union may direct.

(d) A Committee on Miscellaneous Business.—To whom shall be referred all business not otherwise provided for.

(e) A Committee on Appeals.—Provided no objections are entered. If objections be raised, the convention shall then vote on the question, "Shall the President appoint a committee on appeals to be composed of seven mambers of the body?" A majority vote shall decide the question. If the decision be in the affirmative the President shall appoint the committee. In event the action taken is in the negative, the convention shall nominate and elect the committee. To this committee shall be referred all appeals from decisions of the Enecutive Council that are properly essentited, as is provided in the laws of this organization. The committee shall carefully examine the evidence brought before it, and report a resolution sustaining or dismissing the appeal.

SEC. 11. The above-named committees shall consist of such number of delegates, not less than seven, as to the President may appear advisable, and the first-named member of such committee shall be the chairman.

Sec. 12. Special committees thall be appointed only when it becomes necessary to relieve standing committees, or advisable when proposed legislation requires more time for examination and consideration than the standing committee can devote thereto. Each special committee stall consist of such number of delegates, not less than seven, as to the President may appear advisable, and no delegate shall be appointed on such committee unless present at the meeting at which the appointment is made.

Sac. 13. Every officer of the International Union shall put in draft form all proposed legislation that may be recommended in his address or report, and lay such draft before

the proper committee.

Szc. 14. Every committee to whom is referred any resolution, draft, or amendment of a law, or any amendment or alteration of the Constitution, Bylaws, or General-Laws shall report back the full text of the same, with such amendments thereto, or substitute therefor, as said committee may deem needful for perfecting such proposed legislation.

Sac. 15. Every committee to whom is referred, with or without instruction, any communication, report or address or parts thereof, containing recommendations, suggestions, or requests for or of legislation, shall draft in proper form the subject matter to be proposed, as made known in said address, report or communication, and report the same to the union.

SEC. 16. A majority of a committee shall constitute a quorum for the transaction of business.

SEC. 17. All reports of committees shall be presented in writing and signed by the members offering the same.

SEC. 18. Committees shall have authority to indicate what argument or data submitted shall be printed in the daily proceedings or minutes.

Sac. 19. The International Union, in convention assembled, calls to the attention of the executive the importance of giving to the smaller unions a fair and equitable apportionment of the appointment of ecommittees.

# ARTICLE II-STANDON RULES

### CADER OF BUSDIESS

- 1. Roll Call and Reading of the Minutes.
- 2. Reports of Standing Committees.
- 3. Reports of Select Committees.
- 4. Petitions, Memorials, Correspondence, etc.
- 5. Resolutions, Motions, Notices.
- 6. Unfinished Business.

# THE PRESIDING OFFICER

The presiding officer shall take the chair at the time pointed for the union to meet, and immediately call the members to order; and, at the instance of ten members, may order the attendance of absent members who are in the city where and at the time the meetings are held.

2. The presiding officer is empowered to and shall pre-serve order and decorum; and if any member transgresses the rules, the presiding officer shall, or any member may, call him to order, in which case the member called to order shall immediately resume his seat until the point of order has been decided by the presiding officer, or, if appealed, by the union.

3. The presiding officer shall have the right to decide all questions of order, subject to an appeal to the union.

4. The presiding officer shall appoint all committees, unless otherwise ordered by the union.

### THE MEMBERS

5. When a member is to make a motion or to speak to the question, he shall rise in his seat and respectfully address the presiding officer; when recognized, he shall give his name and union, and shall confine himself to the question under consideration.

6. No member shall speak more than twice on any question, nor more than ten minutes at any one time, without

consent of the union. 7. Any member may call for a division of the question

when the same will admit thereof.

8. Every member present shall vote on a question when put, unless the union, for special reasons assigned, shall excuse him.

9. No member shall leave the room during the sessions of the union without the permission of the presiding officer.

### MOTIONS

10. When a motion is made and seconded it shall be deemed to be in possession of the union and shall be stated by the presiding officer; ory being in writing, shall be delivered to the Secretary and read previous to debate.

11. After a motion is stated by the presiding officer, or read, it may be withdrawn by the mover, at any time previous to an amendment or final decision, by consent of the

union.

12. When a question is under debate, no motion shall be received but to adjourn; to lay on the table; for the previous question; to postpone to a certain day; to commit, or to amend-which several motions shall have precedence in the order in which they stand arranged. The motion for adjournment shall always be in order; that and the motion to lay on the table shall be decided without debate.

13. A motion for the "order of the day" shall take precedence of all other business, except a motion to adjourn or a

question of privilege.

14. When a motion or question has once been put and carried, it shall be in order for any member who voted in the majority to move for a reconsideration thereof; but a motion to reconsider, having been put and lost, shall not be renewed.

15. No motion to amend the minutes, by striking out words or sentences, shall be admissible, unless they con-

tain some error of fact or grammar.

16. All motions and resolutions, unless merely affecting the order of business, shall be submitted in writing.

17. A motion to suspend the rules must receive the con-currence of two-thirds of the members present, and shall

be decided without debate.

18. All motions, resolutions, recommendations or decisiens of the executive officers that are sustained, intended to be mandatory, and amendments to or alterations of the Constitution, Bylaws or General Laws, must be drafted in proper form by party or committee submitting them, stating article or section to be amended.

### COMMITTEE AS A WHOLE

19. On going into the committee of the whole, the presiding officer shall name some member to act as chairman of the committee, who shall occupy the chair and conduct the

business while in committee.

20. When the committee is ready to report, the chairman shall take the floor (the presiding officer resuming the chair). and make known in proper form the action or result arrived at by the committee, and the same shall be entered upon the minutes of the union.

# THE QUESTION AND YOTE

21. All questions, unless otherwise provided for, shall be put in or near this form: "Agmany as are in favor of (as the case may be) say Aye; those opposed, No," and in doubtful cases the President may direct, or any memberocall for, a division.

22. A motion for the previous question shall not be entertained unless seconded by twenty-five members of the union

and shall be decided without debate.

23. When so made, the question shall be put in these words: "Shall the main question be now put?" and if decided in the affirmative, shall preclude all further amendment and debate of the question. When there shall be pending amendment, the question shall first be taken upon the amendments in their order, and then on the main question.

24. In filling blanks, the largest sum and the longest time

shall be put firm.

25. The ayes and noes shall be taken and recorded upon any question before the union upon the call of twenty-five members, but such call shall not preclude amendments before the main question is put.

26. While the Secretary is calling the ayes and noes, the members shall vote inside the bar; and it shall not be in

order for any member to explain his vote during the call, unless unanimous consent of the union be given.

27. All questions, unless otherwise provided for, shall be decided by a majority of the votes cast.

### MISCELLANBOUS

- 28. All resolutions, petitions, memorials, etc., shall be referred to their appropriate committees without debates except in cases where there is no opposition to their immediate consideration.
- 29. To impugn the motives of officers, members or committees, or to use reviling or degrading language toward them or the union, shall be considered a breach of order, and punishable by such discipline as the union may see fit to impose.
- 30. At each annual convention the Secretary-Treasurer shall read to the convention a list of former delegates who have died while in good standing in the union whose names have not previously been added to the list of deceased exdelegates and of whose demise he has been notified by local unions or by delegates to the convention prior to August 1. No objection being made the names of deceased ex-delegates so read shall be added to the list of deceased ex-delegates and the convention shall arise and remain standing for one minute as a tribute of respect to its former members.
- 31. In the absence of a standing rule, reference shall be had to "Robert's Rules of Order" as the guide of the union.

## ARTICLE III-ALTERATION OF CONVENTION LAWS

SECTION 1. These convention laws may be amended by a two-thirds vote of the members present at any session of the annual convention, and as amended may, if so directed, become effective immediately. Any amendment shall first be referred to the Committee on Laws and printed in the delly proceedings. The Committee on Laws shall act and report on such a proposal as early as possible.

# THE UNION PRINTERS HOME

### 1957

### CHARTER

Know all Men by These Presents: That we, August Donain, of the city of Washington, in the District of Columbia; John D. Vaughan, of the city of Denver, in the state of Colorado; William S. McClevey, of the city of Indianapolis, in the state of Indiana; James J. Dalley, of the city of Philisdelphia, in the state of Pennsylvanis; Bdward T. Plank, of the city of San Francisco, in the state of California; Columbia; Frank S. Pelica, of the city of Chicago, in the state of Illinois; Amos J. Cummings, of the city of New York, in the state of New York; William Aimison, of the city of Nash-ville, in the state of Temessee; William H. Parr, of the city of Houston, in the state of Texas, and James G. Woodward and Géorge W. Morgan, both of the city of Atlanta, in the state of Georgia, being all and the survivors of all the members and original incorporators of The Union Printers Home, a corporation organized heretofora, to-wit: on the twenty-fourth day of September, A. D., 1990, 'under and in accordance with the laws of the state of Colorado, providing for the organization of corporations for mon-profitable purposes, do hereby make, execute and acknowledge in this certificate of writing, all pursuant of the recommendation of the Board of Trustees of said corporation by resolution expressed, our intention so to alter and amend the articles of incorporation of said The Union Printers Home, to the end that its objects shall be more fully defined and its purposes more economically and prudentially executed and administered as that:

First—The corporate name and style of the corporation shall be The Union Printers Home.

Second—The objects and purposes for which said corporation is formed are to provide and maintain a home for afflicted and aged and infirm union printers, and to procure and furnish such means, care and attention as may be required for the comfort and treatment of persons domiciled at said Union Printers Home, reserving to the Board of Trustees thereof the management and control of said Union Printers Home and the power to exclude therefrom persons suffering from such diseases as said Board of Trustees may deem it inexpedient to admit, contemplating the suppression of vice, and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers to provide for the support, care and maintenance of families of persons then or therefore domiciled at said Home; to receive devises and bequests and

to accept and execute trusts not inconsistent with its objects and purposes.

Third—The membership of said corporaiton shall at no time exceed seven. No person shall be eligible to membership therein except members in good standing of the International Typographical Union. The eligibility of candidates for membership in this corporation shall be determined by the members thereof at their annual meetings, or at any other meeting called for that purpose: Provided, however, That no candidate shall be considered except he shall have been recommended by the International. Typographical Union, and in considering such candidate priority shall be given in the inverse order of the recommendations. Existing vacancies in the membership, whether caused by death, resignation or otherwise, shall be filled at the meeting of members first succeeding the occurrence of such vacancy.

Fourth—The prudential affairs of said corporation shall be managed and controlled by a Board of Trustees having seven members. The Board of Trustees may make bylaws and from time to time may alter, amend or repeal any bylaws. Standing, or special committees may be appointed as provided by the bylaws, and such committees shall have and may exercise such powers as shall be conferred or authorized by the Board or by the bylaws.

Fifth—Such of the original incorporators of said corporation as may not be herein named as succeeding members shall be deemed to have resigned, and it is now hereby agreed and declared that such succeeding members shall be and are: August Donath, James J. Dailey, Frank S. Pelton, Edward T. Plank, W. S. McClevey, Columbus Hall, James G. Woodward.

Sixth—The names of the members of said Board of Trustees who have been selected to act as such during the first year of the existence of said corporation under these amended articles of incorporation are: August Donath, James J. Dailey, Edward T. Plank, Frank S. Pelton, William S. McClevey, Columbus Hall and James G. Woodward.

IN TESTIMONY WHEREOF, We have hereunto set our hands and seals this 19th day of April, A. D. 1892.

| _ /                | EDWAR  |
|--------------------|--------|
| Signed, sealed and | COLUM  |
| delivered in pres- | FRANK  |
| enceof:            | AMOS . |
|                    | WILLIA |

| AUGUST DONATH,       | [Seal.] |
|----------------------|---------|
| JOHN D. VAUGHAN,     | [Seal.] |
| WILLIAM S. MCCLEVEY, | [Seal.] |
| JAMES J. DAILEY,     | [Seal.] |
| BOWARD T. PLANE,     | [Seal.] |
| COLUMBUS HALL,       | [Seal.] |
| FRANK S. PELTON,     | [Seal.] |
| AMOS J. CUMMINGS,    | [Seal.] |
| WILLIAM AIMISON,     | [Seal.] |
| W. H. PARR,          | [Seal.] |
| WILL LAMBERT,        | [Seal.] |
| JAMES G. WOODWARD,   | [Seal.] |
| GEORGE W. MORGAN,    | [Seal.] |

# CONSTITUTION

#### 1957

### ARTICLE I

The name of this corporation is THE UNION PRINTERS

### ARTICLE II

This corporation is formed to provide and maintain a home for invalid and aged and infirm members in gold standing of the International Typographical Union of North America, a voluntary association (unincorporated) whose principal office is located in the city of Indianapolis, in the state of Indiana, and to procure and furnish such means, care and attention as may be required for the comfort and treatment of persons domiciled at said Union Printers Home, reserving to the Board of Trustees thereof the power to exclude therefrom persons suffering from such diseases as such Board of Trustees may deem it inexpedient to admit, contemplating the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers.

### ARTICLE III

The domicile of this corporation shall be at the Home by it maintained at the city of Colorado Springs, in the state of Colorado, but its principal executive office shall be at the city of Indianapolis, in the state of Indiana.

### ARTICLE IV

This corporation shall have a perpetual exsitence.

## ARTICLE V

The membership of said corporation shall at no time exceed seven. No person shall be eligible either to election to membership or to tha retention of membership therein except members in good standing of said International Typographical Union. The eligibility of candidates for membership in this corporation shall be determined by the members thereof at their annual meetings or at any other meeting called for that purpose: Provided, however, That no candidate shall be considered except he shall have been recommended by said International Typographical Union, and in considering such candidates priority in filling vacancies shall be given to the candidate receiving the highest number of votes in the referendum election for nominees of the International Typographical Union for the office of trustee of the Union Printers Home. Provided, further, Members who are re-clected shall have priority to succeed themselves over other nominees.

death, resignation or otherwise, shall be filled at the meeting of members first succeeding the occurrence of such vacancy. Any member of this corporation may be expelled for ineligibility, or for the commission of an indictable offense, or for violation or willful disregard of his duties of membership. Such expulsion may be effected by a two-thirds vote of any regular/heeting or at any special meeting called for that purpose, at which a quorum is present in person or by proxy.

### ARTICLE VI

This corporation may, by its proper officers, accept property, real, personal or mixed, in trust, and pursuant of such acceptance may act as trustee: Provided, however, That no trust shall be accepted nor shall any act as trustee be done, inconsistent with the objects and purposes for which this corporation was created, or which would divert said corporation from the proper administration of its affairs.

### ARTICLE VII

The powers and duties of officers, the manner of creating or filling vacancies in the membership or in any office or on any board or committee, the time and place of meetings and the method of procedure thereat, and all other matters pertinent to the management and control of the affairs of said corporation not herein provided for shall be prescribed by the bylaws.

### ARTICLE VIII

No alterations or amendments shall be made in this constitution except at a regular meeting of the members or at a special meeting called for that purpose, and after one month's notice in writing has been given to each member of the substance of the proposed change. No change shall be made except by a two-thirds vote of any competent meeting, at which a quorum is present in person or by proxy.

# **BYLAWS**

### 1957

## ARTICLE I-MEMBERSHIP

SECTION 1. It shall be the duty of each member of this corporation to preserve his good standing as a member of the International Typographical Union of North America, a voluntary associatioa (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana, to comply with its orders and regulations, and to discharge faithfully his duties and obligations thereto, for as much as this corporation is sustained by the members of that union, and for as much as the objects and purposes of the two bodies are similar to this, to-wit: That each contemplate the suppression-of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and, in the craft of printers.

SEC. 2. Any member of this corporation who shall have ceased to be a member in good standing of said international Typographical Union, or who shall have otherwise become liable to expulsion from this corporation, shall forthwith, upon the occurrence of such delinquency, be notified in writing of the fact by the Secretary of the corporation, or if he be disqualified by interest or refuse to act, then by any member of the Board of Trustees. Such notice shall call for the resignation of such delinquent member. If the member so notified be not within thirty days thereafter heard from, he shall be deemed to have resigned, and the proper officer of the corporation shall thereupon enter on record in the books of the corporation the fact of such resignation, and shall forthwith proceed as hereinafter provided for the filling of vacancies. But if such delinquent member upon being so notified shall answer that the charges against him are not true or that he refuses to resign, then he may be expelled from membership as hereinafter provided.

SEC. 3. Expulsion of a member shall be by a swo-thirds vote of any regular meeting, or any special meeting called-for that purpose, at which a quorum of members is present in person or by proxy. Any member who believes that any other member has by misconduct become liable to expulsion shall, as a privileged communication, report in writing his/reasons for such belief to the Secretary, or if the Secretary be the person who is so delinquent, then to the several members. If the Secretary, or otherwise a majority of the members, deem the reason so stated sufficient to warrant an investigation, the person so accused shall be notified of the substance of the charge made, and shall be requested to resign, or, upon refusal, to be prepared to make his defense against the charges at a time and place to be in said notice named: Provided, however, That thirty days' time be given between the filing

of charges and the investigation thereof. At such meeting the charges made and the answer; of the accused shall be fully investigated. Upon the conclusion of such investigation a vote shall be taken on the question, "Have the charges made been sustained?" If the requisite vote be cast in the affirmative, the accused shall thereby be deemed expelled. The proceedings of meetings as to the expulsion of members shall be strictly private and all communications made thereat shall be privileged.

SEC. 4. Each person upon his election to membership in this corporation, and as a condition precedent to his competency to enter upon the discharge of his duties as such, shall appear before some person qualified by law to administer oaths, and make and subscribe to the following obligation: to writ:

of the city of .

Any breach of this obligation, shall be deemed unlawful and for any damage sustained thereby on the part of said corporation or any person interested as cestul que trust in any property by it held, I agree that judgment may be taken against me in any court of competent jurisdiction, collectible with attorney's fees and without the benefit of exemption and without relief of valuation or appraisement laws.

|             |            | ******     |          |           |           | 400  |
|-------------|------------|------------|----------|-----------|-----------|------|
| Before me   | ********   |            |          | n and for | the city  | of   |
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Such obligation, when executed, shall be forthwith forwarded to the Secretary of the corporation, who shall, upon

receipt thereof, issue to such member a certificate of membership, which shall entitle the person therein named to assume the duties of membership in said corporation.

## ARTICLE II-MEETINGS

Section 1. The fiscal year of the corporation shall end section 1. The first year of the corporation and and annually on the first Saturday after the first Monday in November, and on that day the annual meeting of the members shall be held at such hour as shall be named in the notice thereof. Such meetings shall be held for the purpose of receiving and acting on the annual reports of officers, of electing new members and officers and of transacting such other business as may properly come before the meeting.

Sec. 2. Special meetings of the members may be called at any time by the President, or by any three members, on thirty days' notice in writing being given to each member. A copy of such notice, mailed to each member at his place of residence, as shown by the Secretary's books, shall be deemed sufficient notice. The notice of call of each meeting, except regular meeting, shall state the substance of such business as may come before said meeting, and no business shall be transacted at such special meeting except it shall have been so stated.

SEC. 3. All votes shall be by ballot.

SEC. 4. At meetings of the members the order of business shall be as follows:

First-Roll call of (1) officers and (2) members.

Second-Reading and correcting minutes of last meeting. Third-Communications.

Fourth-Reports of officers.

Fifth-Reports of standing committees.

Sixth-Reports of special committees.

Seventh-Unfinished business.

Eighth-New business.

Ninth-Election of (1) members and (2) officers.

Tenth-Installation of (1) members and (2) officers.

Eleventh-Adjournment.

Sac. 5. The Board of Trustees of The Union Printers Home shall meet annually at The Union Printers Home in Colorado Springs, Colorado, on such date as they may select, all expenses of said meeting to be defrayed from The Union Printers Home Pund. The mode of procedure herein prescribed as to meetings of members of the corporation shall govern in the meetings of the Board of Trustees and all committees in so far as it may be applicable.

# ARTICLE III-OFFICERS

SECTION 1. There shall be elected by the members of the. corporation a Board of Trustees of seven members, who shall manage the prudential affairs of the corporation, and be the supreme authority in all matters of administration. At the

first election three of said Trustees shall be elected for the term of one year, wo for two years and two for three years. As said terms respectively expire, successors shall be elected for terms of three years, except in cases of filling an unexpired term; then the election shall be for such time as the original incumbent would have served. Said board shall organize by electing annually a President, a Vice-President, and a Secretary-Treasurer, who shall hold their respective offices until their successors are elected and qualified.

### PRESIDENT

SEC. 2. It shall be the duty of the President to preside at the meetings of members and of the Board of Trustees and to preserve order therein; to enforce compliance with the Articles of Incorporation, the Constitution and Bylaws, and all orders and regulations of the corporation; to call special meetings of the corporation when requested in writing so to do by two-thirds of the members; and to see that all property of the corporation or in its control is property cared for. He shall see that all moneys belonging to the corporation are property deposited in responsible banks, in the name of the corporation, as such, and money shall be drawn from such fund only by check signed by the President and Secretary-Treasurer of the corporation.

He shall appoint all committees and shall be ex officio a member thereof. He may suspend any officers or agent of the corporation pending action of the Board of Trustees or of the members, as the case, may be, if, in his judgment, the welfars of the corporation requires such action. He shall annually appoint the following standing committees of the Board of Trustees, to consist of three members each: Plaance, Admission and Rules, and one member of the Executive Committee, who, with the President and Secretary. Treasurer, shall constitute that committee. He shall do all such other acts as are ordinarily incumbent upon the chief executive officer of a corporation.

### VICE-PRESIDENT

Sec. 3. In the event of the death or resignation of the President, or his inability or failure to perform his duties, the Vice-President shall perform all the duties and have all the powers of the President.

#### SECRETARY-TREASURES

Sac. 4. The Secretary-Treasurer shall keep the records of the corporation. He shall record in books kept for that purpose the names and postoffice addresses of the members of the corporation, the dates on which they were respectively elected, the names of officers and committees and the proceedings of meetings of the members and the Board. The Secretary-Treasurer shall have the custody of all moneys belonging to the corporation and of all certificates of loan or other evidences of investments, which he shall skiblit once a year, or oftener, if required by the President, or by the Board of Trustees; he shall, under the direction of the President,

deposit all funds in some responsible bank or banks, in the name of the corporation, and shall procure interest thereon when possible and cover the same into the treasury of the corporation; he shall disburse moseys only by check signed by the President and the Secretary-Treasurer; he shall keep a full and correct account of all moneys received and of all moneys disbursed; he shall pay only such bills as she approved by the Finance Committee or the President; he shall give a bond to the corporation from a solvent guarantee company in the sum of \$25.000, and shall, as to such apparate company in the sum of \$25,000, and shall, as to each separate fund or property held in trust by the corporation, give a bond to the Board of Trustees, as trustees for such fund or properry, in such sum as the instrument creating such trust shall direct. All bonds shall be conditioned for the faithful performance of his duties. The Secretary-Treasurer shall also furnish the Board with a monthly statement of receipts and disbursements, and shall also publish the same each month in The Typographical Journal. He shall perform such other duties as are ordinarily incumbent upon the Secretary-Treasurer of a corporation or board of trustees.

## EXECUTIVE COMMITTEE

SEC. 5. The Executive Committee shall have power to do any acts relating to the affairs of the corporation which the Board of Trustees could lawfully do, and which the Board of Trustees may entrust to said committee. It may meet from time to time, and may adjourn from place to place as it thinks proper for carrying into effect the purposes of its

## FINANCE COMMITTEE

Sec. 6. The Finance Committee shall audit all accounts and claims and shall in writing report upon the feasibility of all contemplated expenditures of an extraordinary character.

## ADMINISON COMMITTEE

Sac. 7. The Admission Committee shall, before any action SEC. 7. The Admission Committee shall, before any action is taken on any application for mumbership in the corporation or for admission to any institution or piace under the control of this corporation, examine the qualifications of the applicant, and if such person be ineligible in the opinion of the committee, the application shall be rejected, but the right of appeal shall lie to the Board of Trustees from any decision of the committee.

## COMMITTEE ON BULES

SEC. 8. The Committee on Rules shall have the powers as perform the duties ordinafily incumbent upon judiciary co-mittees. It shall not co-ordinately with the Solicitor of it corporation in all matters referred to it by the President Board of Trustees, or any other committee thereof, prescribe the rules for the government of servants corporation and for the conduct and behavior of admitted to any institution or place under the control corporation.

## ARTICLE IV-SERVANTS OF THE CORPORATION.

SECTION 1. The President shall, with the concurrence of the Board of Trustees, appoint a Superintendent and Matron-for each institution under the management and control of the corporation, who shall reside upon the premises and who shall not be discharged except for cause and with the concurrence of the Board of Trustees. The Superintendent shall purchase all supplies needed by the institution seld shall keep an account thereof; he shall make a detailed report each month to the Finance Committee. The Matron shall have charge of the household duties of the Home; she shall procure all needed supplies from the Superintendent, keeping a correct account thereof and reporting monthly to the Finance Committee. The compensation of the Superintendent and Matron shall be fixed by the Board of Trustees.

SEC. 2. The President may annually appoint a Solicitor, who shall attend to the legal business of the corporation.

## ARTICLE V-ADMISSION OF RESIDENTS .

SECTION 1. Every application for admission into any institution under the management and control of this corporation shall be made in writing, setting forth the name, age and residence of the applicant, and such other information as the Committee on Admission may require, contemplating the competency of such person to share in the benefits and resources of the fund or trust to which his application is directed. All nominations shall be received by the Secretary and recorded in the order of presentation in a book kept for that purpose, and shall be referred upon receipt to the Committee on Admission, upon whose favorable report the application shall be accepted and the applicant admitted.

SBC. 2. Each candidate for admission shall make application through the subordinate union of said International Typographical Union of which the applicant may be a firember in good standing. Each application shall be endorsed by the president and secretary of the subordinate union to which the candidate belongs, and the seal of the union shall be attached thereto.

## ARTICLE VI-REORGANIZATION OF THE CORPORATION

Whereas, There has of recent date been a reorganization of this corporation, made pursuant of a resolution adopted by the Board of Trustees of The Union Printers Home, as organized on the 24th day of September, A. D. 1890, which resolution was as follows, to-wit:

Whereas, It has been reported to this corporation by its Solicitor that a reorganization is requisite in order to accomplish more readily and economically the purposes for which the corporation was formed; and,

Whereas, It is desirable that this corporation be competent to execute trust consistent with its own purposes; therefore be it

Resolved, That steps be taken forthwith to reorganize this corporation, to the ends following, to-wit:

First-That the number of members of the corporation be reduced from thirteen to seven.

Second-That a Board of Trustees be created with power to mariage and control the prudential affairs of the cor-poration, and with authority to delegate duties to competent committees to the end that the administration of the affairs of the corporation may be attended with less expense.

Third-That the corporation be made competent to accept and execute trusts consistent with its own purposes.

Fouth-That such other functions and duties may be defined and assumed as are consistent with the general design of the corporation, and as were contemplated in its original organization, but defectively provided for; and

Whereas. At the time of said reorganization and as a means of effecting the same, the following named persons resigned their membership therein and released and sur-rendered all their rights, privileges, benefits and advantages thereunto appertaining, to-wit: John D. Vaughan, Amós J. Cummings, George W. Morgan, Will Lambert, William Aimison, William H. Part.

Now, Therefore, Be it resolved and enacted as a bylaw or reorganization, on the part of said John D. Vaughan Amos J. Cummings, George W. Morgan, Will Lambert, William A. Milliam H. Parr, and of said The Union Printers Home as originally incorporated by, and the same as hereby in all respects confirmed, ratified and adopted by this corporation as the acts of this corporation, and that any and every liability of said parties on account of such reorganization be and the same are hereby assumed by this corporation.

## ARTICLE VII-THE HOME AT COLORADO SPRINGS

Whereas, The members of the International Typographical Union of North America have, by their individual efforts and with their separate means, procured land for the required site therefor, and the erection and construction at Colorado Springs, in the state of Colorado, of an institution or home for invalid and aged and infirm members, in good standing, of the said International Typographical Union; and

Whereas, The said members have in like manner and by like means provided an endowment for said institution or home, by which the same may be maintained and sup-

Whereas, The objects and purposes of said International Typographical Union and of this corporation are similar and alike in this, to-wit: That each contemplates the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and hap-piness among and in the craft of printers; and

Whereas, This corporation is supported and maintained by the members of said International Typographical Union; and.

Whereas, Said institution or Union Printers Home at Colo rado Springs is now completed and ready for occupancy and the equitable title thereto is vested in trustees of the members of said union; and,

Whereas, With the belief that said Union Printers Homecould be more economically and prudentially managed by this corporation than by the members of said union, who are of great number and widely acattered over the United States and Canada, it has been proposed that this corporation take in trust for said members the title to said Home.

Now, Therefore, Be it resolved and enacted as a bylaw of this corporation, that the deed of trust for said land, executed on the 17th day of May, A. D., 1892, to this corporation be, and the same is hereby accepted, and this corporation, pursuant of such acceptance, undertakes to act as trustee in carrying out the trust by said deed created and which is expressed in the words and figures following, to-wit:

"This Deed, Made this seventeenth day of May, in the year of our Lord one thousand eight hundred and nisery-two, between Edward T. Piank, William S. McClevey and Columbus Hall, as trustees for the International Typographical Union, of North America, a voluntary association (unincorporated), whose principal office is located at the city of indianapolis, in the state of indiana, parties of the first part, and The Union Printers Home, a corporation organized under and by virtue of the laws of the state of Colorado providing for the organization of corporations for non-profitable purposes, party of the second part.

"Witnesseth, That the said parties of the first part, by virtue of the authority in them confided as said trustees, and in consideration of the conditions and the trust and confidence hereinafter recited, defined and declared.

"Have granted, bargained, sold and conveyed and by these presents do grant, bargain, sell and convey and confirm unto the said party of the second part as said trustee, to its successors and assigns forever, all the following described lots and parcels of land situatis, lying and being in the county of El Paso, in the state of Colorado to-wit: The west half of the southwest quarter of section sixteen (16), township four-teen (14) south, range sixty-six (66) west, containing eighty (80) acres, more or less, together with all and singular the heriditaments and appurtenances thereto belonging or in anywise appertaining and the reversion and revenions, remainder and remainders, rests, issues and profits thereof and all the estate, right, title, interest, claim and domand whatsoever of said parties of the first part, or either of them, either in law or in equity of in and to the above-bargained premises with the hereditaments and appurtenances.

"To have and to hold the said premises above bargained and described with the appurtenances unto the party of the second part as said trustees, its successors and assigns forever:

"Provided, always, And this conveyance is made upon the express condition of the performance of the trust and considence herein and hereby declared, as follows, to-wit:

"Whereas, The members of the said International Typographical Union of North America have by their individual efforts and with their separate means procured the abovedescribed land for a situs, and the erection and construction thereon of an institution or home for invalid and aged and infirm members in good standing of the said International Typographical Union; and,

"Whereas. The said members have in like manner and by like means provided an endowment for said institution or home by which the same may be maintained and supported; and

"Whereas, The object and purpose of said International Typographical Union and of said grantee herein, viz.: The Union Printers Home, are similar and alike in this to-wit: That each contemplates the suppression of vice and immortality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers; and,

"Whereas, Said institution or home is now completed and teady for occupancy and the title thereto is vested in trustees of the members of said union; and,

"Whereas, Said home could be more economically and prudentially managed by said The Union Printers Home than by the members of said international Typographical Union, who are of great number and widely scattered over the United States and Canada.

"Now, Therefore, To obtain and secure these desirable ends, and for no other purpose, this deed of conveyance is executed, vesting in said corporation, as trustee, the title of and to said real estate:

"First—Out of and with funds provided by the said International Typographical Union of North America the said party of the second part shall supply said institution or home with plain and suitable furniture, apparatus and all other matters needful to carry the general design of this trust into execution.

"Second—After said institution or home shall have been supplied with plain and suitable furniture, appearatus and all other matters needful to carry into execution the general design of this trust, the unexpended residue of the endowment provided by said international Typographical Union and the income, issues and profits thereof, together with say income, issues and profits arising from and out of the saie or lease of any part of the above-described land shall be applied to maintaining the said intrinution or home according to the directions bersie.

"Third—Forthwith upon said party of the second part entering into possession under this deed, the Treasurer of said corporation shall execute to said corporation his good and sufficient bond in the penal sees of 25,000, lawful moneys of the United States, conditioned upon the faithful performance of his duties as such Treasurer in earling for the funds and property of this trust which may come lesso his possession. Such bond shall be executed in compliance

with the laws of the state of Colorado and shall be construed according to said laws. Annually thereafter said Treasurer shall in like manner execute a similar bond: Provided, however, That the penal sum of any subsequent bond so given shall be in such amount as said corporation by its proper officers may direct.

"Fourth—That said institution or Union Printers Home shall be organized as soon as practicable by the selection of competent officers and servants, and to accomplish that end more effectually due notice of the intended opening

shall be given.

"Fifth—A competent number of officers, physicians and surgeons, nurses, servants, and other necessary agents shall be selected, and when needful their places from time to time be supplied. They shall receive adequate compensation for their services; but no person shall be employed who shall not be of tried skill in his or her proper department, of established moral character, and in all clases persons shall be chosen on account of their merits and sot through intrigue or favor: Provided, however, Nothing herein shall prevent any resident of said Union Printers Home from rendering such gratultous service as he may be able and willing to render.

"Sixth—As many invalid and aged and infirm members of said International Typographical Union as the endowment shall be adequate to maintain in said Union Printers Home shall be introduced into The Union Printers Home as soon as possible, and from time to time as there may be vacancies or as increased ability from income may warrant, others shall be introduced.

"Seventh—On the application for admission an accurate statement shall be taken in a book prepared for the purpose, of the name, birthplace, age, health, condition as to relations, place from which sent, and other particulars useful to

be known of such persons admitted.

"Eighth—No person shall be admitted as a resident of said Union Printers Home, except members in good standing of said International Typographical Union of North America, and such eligibility shall be determined by the proper authority of said corporation upon the fiscts presented in the application for admission: Provided, however, That in case of emergency, the President of the corporation may, on proper showing of urgency, admit an applicant to and Union Printers Home, pending investigation of the elegibility of said applicant to share the bounty of this trust: And provided, purther, That the power be and is hereby reserved to the Board of Trustees of said The Union Printers Home to exclude therefrom persons suffering from such diseases as said Board may deem it inexpedient to admit, contemplating the suppression of vice and immorality, the advancement of halpiness among and in the craft of printers.

"Ninth—Those persons whose admission application shall first introduced, all other things cocurring, and at all future times priority of applications shall entitle the applicant to preference in admission, all other things concurring; but if there shall be at any time more applicants than vacancies, and the applicants be suffering from different afflictions, or be of different degrees of infirmity, then a preference shall be given (1) to the afflicted as against the infirm; (2) to those of the afflicted to whom the greatest probable good can be done by admission as against those to whom a less degree of good is probable; and (3) to those of the infirm whose infirmity is greatest. In all things it shall be the duty of said trustees, its officers and servants in the administration of the affairs of this trust to contemplate doing the greatest good with the resources at hand to the end that the welfare of this trust shall be conserved, and that the Home shall become and be an example worthy of emulation on the behalf of other crafts and orders.

Tenth—The persons admitted into said Union Printers Home shall be there fed with plain but wholesome food, clothed with plain but decent apparel (no distinctive dress ever to be worn) and lodged in a plain but safe manner; due regard shall be paid to their health, comfort and happiness, and to this end their persons, clothes and apartments shall be kept clean, and they shall have suitable and rational exercise and recreation. And as to the character of this exercise and recreation there shall be no restrictions, except that it shall be taken at timely hours, and shall be moral and temperate in all its respects. In this behalf much may be suggested to the Board of Trustees of said corporation by the topography and character of the grounds of the institution, and it is recommended without being made a duty of said Board, that landscape gardening, or some similar vocation, be undertaken on said grounds as a source of exercise and recreation to the persons domiciled at said Home. But no task or duty shall ever be imposed under the guise of exercise or recreation on any resident of said Union Printers Home be permitted to engage in any money-making scheme or act in connection with the property of said Union, Printers Home: Provided, however, Nothing herein shall be construed as a restriction upon the clause of lease or sale hereinafter contained.

"Eleventh—No charge, tax, fee or assessment shall ever made, levied or collected from any person domiciled at said Union Printers Home. Its bounty shall be unpurchasable, its charity shall be given without price: Provided, however. That nothing herein contained shall be construed to prohibit any person from making to said Union Printers Home an absolute and unqualified donation.

"Twelfth—No duty shall be required of any resident of said Union Printers Home except the duty of good behavior and compliance with such rules for the discipline and administration of said Union Printers Home as the Board of Trustees of said corporation in their wisdom, and contemplating the purposes of this trust, may adopt.

"Thirteenth—Should it unfortunately happen that any person admitted to said Union Printers Home shall, from malconduct, have become unfit longer to remain, and mild means of reformation prove futile, such person shall be

expelled therefrom.

'Fourteenth-The death of any resident of said Union Printers Home shall forthwith, upon its occurrence, be communicated by telegraph to the President of said inter-national Typographical Union, and the remains of the de-ceased shall, for a proper length of time, be held waiting the order of said President. But if no response be had within a proper time from said President, then the remains shall be interred in a part of the grounds of said Union Printers Home which shall have been set apart for that purpose. In the burial of its unclaimed dead, The Union Printers Home shall provide a plain but next robe and other essential garments, and a plain but neat casket, with such auxiliaries as may be requisite. Each grave shall be appropriately marked with a plain marble beadstone, bearing the name of the deceased. The date of each death, the cause thereof, the duration of illness, the time given for answer from the notice of death sent to the President of said International Typographical Union, the place of burial, the cost of burial, and other particulars useful to be known shall be recorded in a book kept for that purpose: Provided, however, That should the Board of Trustees of said corporation, or the civil authorities having jurisdiction thereof, deem it not advisable to set apart any portion of the grounds of said dvisable to set apart any portion of the grounds of said Union Printers, Home for cemetery purposes, or if after such cemetery has been established, either said Board or said civil authorities shill fleem it expedient to abate such cemetery, said Board of Tristees may, out of the funds of this trust remaining unexpended, procure other suitable place of burial, and in so dothe extravagance shall be avoided, to the end that the greatest-possible amount of the funds of this trust shall be preserved by the care of the living.

"Pitteenth—If as any time the Board of Trustees of said

"Pifteenth—If at any time the Board of Trustees of said The Union Printers Home find it to be impracticable and inconsistent with the objects and purposes of this trust to maintain as a part of the grounds of said Uning Printers Home so large a tract of land as that hereinbefor's described, then they may lesse or sell and dispose of any part of said, land not exceeding sixty acres, as they may deem expedient? Provided, always, That the rents, issues and profits of any lesses, sale or disposition of property so made shall be forthwith and wholly turned over to the Treasurer of said The Union Printers Home, to be applied to the same uses and purposes as are herein declared of and conserning said trust generally. If the sale of said sixty acres, hereinbefora mentioned, shall have been made, and thereafter it shall be by said Board of Trustees found impracticable, on account of any particular circumstances of the location of said Union Printers Home, or the failure of endowment, or other safficient reason, longer to maintain said Union Printers Home, then said Board of Trustees may sell and dispose of the remainder of said land, and 'the buildings and structures thereon, as they may deem expedient: Provided, always. That the issues and profits of such second sale of disposition of property so made shall be forthwith and wholly turned

over and surrendered to the Treasurer of said International Typographical Union to be thereafter used as said union may direct. Any deed made by said Board of Trustees pursuant of the authority herein conferred shall contain a covenant of general warranty.

"Sixteenth—None of the moneys, principal, interest on dividends, and none of the property of said trust or the rents, issues or profits thereof, or acquired or arising by the virtue of or incident to said trust or the administration thereof, shall ever be applied to any other purpose or purposes whatever than those herein mentioned and appointed.

"Seventeenth—Separate accounts, distinct from the other accounts of the corporation, shall be kept by said corporation concerning the said trust, Home and funds, and of the investment and application thereof, and a separate account or accounts be kept in bank not blended with any other account, so that it may at all times appear on examination that the objects of this trust have been and are being fully complied with. And the said corporation shall render a detailed account annually to the said International Typographical Union at the commencement of its convention concerning the said trust, Home and funds, and shall submit, all their books, papers and accounts touching the same to a committee of said international Typographical Union for examination when the same shall be required.

"Eighteenth—it shall be the duty of said Trustees to defend the title at law in case of any suit brought respecting the title to the real estate hereinbefore described; give notice, if it may be useful or practicable, of any such suit to the said international Typographical Union, or its proper officers; keep the trust property insured in good companies, using trust funds thesefor; pay out of the funds provided all taxes, charges and assessments; afford accurate information to said international Typographical Union of the condition and disposition of the trust property; if not possessed of all proper information to seek for and, if practicable, obtain it; manage The Union Printers. Home and care for the residents thereof according to the intent and general design of this trust, and contemplating the purpose (1) for which said Union Printers Home was established and endowed, and (2) considering the mutuality of purpose which exists in the purposes of said The Union Printers Home and said International Typographical Union, to-wit: That each contemplates the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers.

"To all of which objects the said parties of the first part grant, convey and confirm the said property as aforesaid, but if the said party of the second part shall knowingly and willfully violate any of said conditions then and thereupon the said International Typographical Union, by it officers or agents by it in convention authorized and appointed so to do shall have the right to enter upon said land and take possession as the absolute and unconditional owner thereof in fee simple.

"And the said parties of the first part for themselves, their heirs, executors and administrators, do covenant, grant, bargain and agree to, and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents they are well siezed of the premises above conveyed as of good, sure, perfect, absolute and indefeasible estate of inheritance in law, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind and nature soever, and the above, bargained premises in the quiet and peaceful possession of the said party of the second part as trustee, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part shall and will warrant and forever defend.

"In witness whereof the said Edward T. Plank, William S. McClevey and Columbus Hall, as Trustees for the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana, have hereunto set their hands and seals the day and year above written.

"EDWARD T. PLANK, [Seal.]
"WILLIAM S. McCLEVEY, [Seal.]

"COLUMBUS HALL - [Seal.]

"As Trustee for the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis in the state of Indiana."

#### ARTICLE VIII

## UNION PRINTERS HOME ENDOWMENT PUND

SECTION 1. There is hereby created "The Union Printers Home Endowment Fund," the same to consist of such moneys and other property as may be donated, devised, bequeathed or otherwise contributed to such fund.

SEC. 2. The principal of such fund shall be held perpetually by the Board of Trustees of The Union Printers Home and their successors, and shall be separate and distinct from other funds and be invested and reinvested in bonds of the United States, for in approved, nontaxable state, county, township, municipal or school district bonds within the jurisdiction of the International Typographical Union.

SEC. 3. The Executive Committee of the Board of Trustees of The Union Printers Home shall have power to invest the principal of The Union Printers Home Endowment Fund, or any part thereof, in securities of the character provided in section 2, subject to the approval of the Board of Trustees of The Union Printers Home.

SEC. 4. All interest and income derived from the investment of such fund, or any part thereof, shall be deposited to the credit of The Union Printers Home, and shall be used for the maintenance of The Union Printers Home.

Sec. 5. The Secretary-Treasurer of The Union Printers
Home shall prepare and furnish a nk upon which donations to said Union Printers Home Endowment Fund may be
made and there shall be printed annually in the report of
the Board of Trustees a list of names of all contributors to
The Union Printers Home Endowment Pund.

SEC. 6. The fund hereby created shall not preclude or affect the right of The Union Printers Home to receive devises and bequests and to accept and execute trusts as now provided by the Charter, Constitution and Bylaws of The Union Printers Home.

## ARTICLE IX

These Bylaws may be altered or amended, with the exception of articles vi and vii, which are irrevocable, by the Board of Trustees. Proposed amendments shall be submitted in writing by the Secretary to the members of the Board, who shall each submit his vote in writing to the President, who, upon inspecting the same, shall deliver it to the Secretary for preservation among the records of the corporation. If two-thirds of the Trustees are in favor of the amendment the President shall direct the Secretary to make such change in the bylaws.

## RESOLUTIONS

1. Where applicants are admitted to The Union Printers Home the expense of transportation shall be defrayed by the local typographical union, when the applicant is unable to pay the same. —Proceedings 1894, page 41.

 The Committee on Admission is instructed to exclude persons suffering from tuberculosis in the last stage and from infectious and contagious disease. —Proceedings 1894.

page 41.

3. The Board of Trustees is hereby authorized to appropriate from the Home Fund, upon proper application of the Superintendent, an amount equal to railroad fare from the place where application was made for admission to the Home; said amount to be expended by the Superintendent in purchasing transportation in whatever direction a discharged resident may select. Where a resident is discharged for misconduct, the amount appropriated shall be charged to the local union recommending him.—Proceedings 1894, page 41.

- 4. Applicants for admission to The Union Printers Home shall be members of the International Typographical Union for not less than ten continuous years, immediately antedating time of application: Provided, That members suffering from tuberculosis or other serious diseases requiring immediate temporary treatment may, at the discretion of the Board of Trustees, be admitted after attaining a continuous active membership of eighteen months in the International Typographical Union. Where the admission committee is satisfied that such affiliation was entered into to secure admission to the Home, the application shall be rejected. The Board of Trustees reserves the right to consider any exception to the above rules.
- The Superintendent of The Union Printers Home is hereby given power to regulate the internal affairs of the Home, and if a resident proves obnoxious, and persists in his conduct, he should be discharged.—Proceedings 1893, page 219.
- 6. That the Superintendent of The Union Printers Home furnish, for publication in The Typographical Journal, a monthly statement of admissions to and expulsions from the Home, names of unions sending residents and such other information as may be of interest concurring the condition of the residents.—Proceedings 1894, page 41.
  - 7. That charges against the management or any officer of The Union Printers Home must be of a specific nature, and made in the regular manner provided by the rules of the institution and endorsed by the union which secured the admission of the resident preferring the same.—Proceedings 1894, page 41.

- That residents be required, when able, to perform such duties as may appear proper to the Superintendent, subject to the judgment of the attending physician.—Proceedings 1894, page 41.
- That residents who have vacated The Union Printers Home and received transportation shall be required before being readmitted, to refund the amount of such transportation.—Proceedings 1836, page 123.
- 10. That the Board of Trustees be and is hereby authorized to make an allowance of at least 50 cents a week to members of subordinate unions now or hereafter in the Union Printers Home, whose unions are unable to make any financial provisions for them.—Proceedings 1896, page 123.

Superintendent instructed to pay two dollars weekly allowance from Home funds as above provided and to members admitted from unorganized territory.

 Residents vacating The Union Printers Home, when found guilty of disposing of the transportation furnished, shall be required to refund the full amount of such transportation.—Proceedings 1896, page 123.

12. That the Board of Trustees of The Union Printers Home be instructed by this convention to incorporate in its rules a provision that all applications for admission to The Union-Printers Home be accompanied by a medical report made by a physician selected by the union in which such applicant holds membership.—Proceedings 1909, page 264.

## AGREEMENT

Between The International Typographical Union, The International Printing Pressmen and Assistants' Union, The International Brotherhood of Bookbinders, The International Stereotypers' and Electrotypers' Union, and The International Photo-Engravers' Union.

The duly authorized representatives of the International Typographical Union, the International Printing Presented and Assistants' Union, the International Brotherbood of Bookbinders, the International Stereotypers' and Electrotypers' Union and the International Photo-Engravers' Union have entered into the following agreement for the formation of an association for a joint ownership of the allied printing trades union label:

## ARTICLE I

### NAME, OBJECT, JURISDICTION

SECTION 1. This body shall be known as the International Allied Printing Trades Association.

SPC. 2. The objects of this association are to designate the products of the labor of the members thereof by adopting and registering a label or trade mark designating such products; and to engage in such other cooperative efforts as may be decided upon by its board of governors to be in the interests of the members of this association. It is obligatory on the members of this association, its officers and local councils to bear in mind this object and flot confuse it with the internal affairs or duties of the several unions comprising this association as to organization and other internal matters.

Sec. 3. To that end the association shall by its board of governors adopt a label, to be known as "Allied Printing Trades Label," which label shall be used to distinguish the product of the labor of the members of the association; and the association shall exercise jurisdiction throughout the United States of America and Canada in regard to said label, and over subordinate local organizations which shall be established and maintained in accordance with the provisions of these laws.

# ARTICLE II

SECTION 1. All members in good standing of the International Typographical Union, the International Printing Pressmen and Assistants Union, the International Brotherhood of Boukbinders and the International Photo-Engravers' Union shall be members of this association. But before the members of any of the said unions shall become members of this association, they shall by appropriate action taken by them at a convention, or on referendum vote of otherwise in manner approved by the respective unions, duly declare their intention and desire to become such members and agree to abide by all laws and regulations now or bereafter adopted for the government of this association, and shall at the same time provide who shall constitute their representatives on the board of governors hereinafter provided for in Article III. And any member ceasing to be a member in good standing in one of said unions shall thereby cease to be a member of this association.

## ARTICLE III

## BOARD OF GOVERNORS

SECTION 1. The affairs of this association shall be conducted and governed by a board to be known as the "Board of Governors." Said board shall also be trustee of, and hold title to, any label adopted by the association and all other property of the association; and they shall cause to be registered such label in all states, territories and District of Columbia, in the United States, and Dominion and Provinces of Canada, where registration is or may be hereafter authorized by law.

SEC. 2. The board of governors shall consist of fifteen

The International Typographical Union shall select three members of said board; the International Printing Pressnen and Assistants' Union shall select three members of said board; the International Stereotypers' and Electrotypers' union shall select three members of said board; the International Brotherhood of Bookbinders shall select three members of said board; and the International Photo-Engravers' Union shall select three members of said board.

The selection of said members of said board of governors shall be in the manner and by the mode adopted by the several international unions above specified respectively.

SEC. 3. The members of said board shall hold office until their successors are duly chosen. Should any member of said board cease to be a member, his successor shall be chosen or designated by the union which had selected such member in such manner as such union may determine.

Sec. 4. The officers of the board of governors shall be a president, vice-president and secretary-treasurer and such other officers as the board may determine, who shall be elected by a majority vote. But no two executive officers shall be members of the same trade union.

Sec. 5. Regular meetings of the board of governors shall be held on the first Monday in October and March of each year at the place decided upon by a majority vote of the board of governors, written notice of which shall be mailed to each member of the board by the secretary-treasurer thereof. At the regular meeting in March, the officers of said board shall be nominated, elected and installed for the ensuing year. If any viscancy occurs during the ensuing year it shall be filled from members of the board.

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On written demand of a majority of the members of the board, the president shall call a meeting at a convenient time and place designated by the president and after written notice is mailed to each member of the board.

In the event of any member of the board being unable to attend any meeting he shall designate a proxy, who, however, shall be a member of the same trade union. Upon the filing of properly presented credentials to the board of governors, said proxy shall be accorded all rights and privileges due to the member for whom he is proxy.

In the absence of any member or members selected by said union the other member or members of the board selected by such union may cast the full vote to which said union shall be entitled without having any proxy to do so.

In voting the unit rule shall prevail. In the event representatives of any international union fall or refuse to vote on any question, in any meeting or when submitted by mail as hereinafter provided, the three votes of that international union shall be recorded as negative votes.

In the event the votes of the three representatives of any international union are divided the three votes of that international union shall be recorded as the majority tote of the delegation determines.

In the event only two representatives of any international union are present each shall cast one and one-half votes but should the votes be divided or in opposition to each other the three votes of that international union shall be recorded as negative votes.

Between meetings the secretary-treasurer may submit any questions calling for prompt action to the consideration of the members of the board of governors by mail, and the members shall vote by mail within 30 days or, upon request of any union for extension of time, within 90 days of the date of submission. Their votes shall be canvassed and announced by the secretary-treasurer and given the same effect as though cast at a meeting, and all such proceedings shall be reported by the secretary-treasurer at the next regular meeting of the board.

All questions coming before the board of governors shall be decided by four-fifths vote (on unit basis), except as provided in sections 4 and 5 of this article.

- Sec. 6. The beard of governors may adopt such rules of procedure in the hearing of appeals and in the conduct of such other business as may properly come before it as do not conflict with any of the laws of the association,
- SEC. 7. The board of governors shall not make any decision interfering with the autonomy of any international union to decide its own internal affairs. Jurisdiction over processes of work are questions for settlement by the international unions involved.

#### ARTICLE IV

## LOCAL ALLESS PRINTING TRADES COUNCIL

SECTION 1. In cities where there are subordinate unions chartered by two or more of the unions mentioned in Article II hereof, a local allied printing traces council shall be formed, the geographical jurisdiction of which shall be that area over which all local unions affiliated with the local council have jurisdiction, or as may be further agreed upon by local unions of the several international unions and approved by the board of governors. Within such jurisdiction no union of the International Allied Printing Trades Association no union of the International Allied Frinting Trades Asso-ciation shall use any trade label other than that issued by said International Allied Printing Trades Association through the local allied printing trades council, and all unions whose members are members of the international Aflied Printing Trades Association shall withdraw from said jurisdiction their union label. If any international union shall fall or refuse to so withdraw its label or shall issue its label contrary to the provisions of this section all international unions parties to this agreement are free to use their label within the geographical jurisdiction of the local allied printing trades council or councils involved. To qualify as a subordinate union under the terms of this section said union shall be composed of at least seven members working at the trade in the geographical jurisdiction of the contemplated local allied printing trades council.

Sec. 2. Local allied printing trades councils shall be composed of members chosen by and from those who are members of said subordinate union, there being appointed or elected from each union in the manner and by the mode adopted by the members of the union. The selection of the three members from the membership of each of said unions shall be certified to said local allied printing trades council, and the three members of each union shall continue to be members of said local council for a term of one year and until their successors are duly chosen and certified by the members of that union. No one shall be at the same time a member of more than one local allied printing trades council has members working within the jurisdiction of another local allied council said union may designate a member so working to attend meetings of the other council with voice but no vote but his local union may appeal to the board of governors regarding the alleged violations of the Label License. The local council involved shall answer said appeal.

SEC. 3. Each delegate present at any meeting of a local allied printing trades council shall be entitled to one vote. But a roll call may be demanded by any member on a question involving the raising of revenue or the election of officers, and on said roll call each member shall be entitled to additional votes as follows: For fifty (50) members of whe local union to which he belongs, one vote; or each additional fifty (50) members or major fraction thereof up to three hundred (300) members, one vote; for the next two hundred (200) members or major fraction thereof, one vote; for each

additional five hundred (500) members or major fraction thereof, one vote, the membership to be computed in accordance with last per capita tax paid by each local union.

Sec. 4. Local allied printing trades council shall-siect as officers a president, vice-president and secretary-tressurer and such other officers as the local council may determine. Anil said local councils may adopt such provisions and rules for their government as are not in conflict with the purpose and provisions of the laws of the international Allied Printing Trades Association or in conflict with the rulings of the board of governors of the international Allied Printing Trages Association.

Sec. 5. The funds of each local allied printing trades council shall be under its control, and shall be on a per

capita basis.

## ARTICLE V

SECTION 1. Appeals may be made to the board of governors from the decision or action of say local slided printing trades council. In such case the appellant must within ten days from said decision or action file notice of his intention to appeal with the president, vice-president or secretary-treasurer of the local allied printing trades council; and within thirty days from said decision or action the appellant shall forward to the secretary-treasurer of the board of governors fifteen typewritten copies of the appeal papers, serving one copy on the president, vice-president or secretary-treasurer of said local allied printing trades council. After such service said local allied printing trades council shall have thirty days in which to file with the secretary-treasurer of the said board of governors fifteen typewritten copies of its answer. And no such appeal shall be considered by the board of governors unless it shall be approved by the local union of which the appellant is a member; such approval being evidenced by the certificate of the president and secretary of that union; which said certificate shall accompany the appeal appears at the time they are forwarded to the secretary-treasurer of the board of governors.

SEC. 2. When the papers are complete in each case the secretary-treasurer of said board of governors shall forward one copy of the papers to each member of said board of governors. Thereupon each member shall consider the case thus presented to him and within thirty days after the receipt of the documents each of said members shall file an opinion in the case with the secretary-treasurer of the said board of governors, and within thirty days after the opinions of the members have been received by the said secretary-treasurer and submitted to the several members of said board for final action. The members of said board must register their votes

on the appeal.

## ARTICLE VI

## USE OF THE UNION LABOR.

SECTION 1. The International Allied Printing Trades Association, by its board of governors, shall own and control the use of the allied printing trades label.

- SEC. 2. It shall by action of its board of governors and in accordance with and subject to the provisions of these laws, loan the label to local allied printing trades councils as agents of said international Allied Printing Trades Association upon receipt of a sum of money from the local council, not exceeding ten (10) per cast above the cost of production and distribution of said label.
- SEC. 3. No allife printing trades council shall issue any label not procured from said international Allied Printing Trades Association, nor duplicate nor allow the duplication of said label except in the case of stereotyped, electrotyped, photo-engraved, offset or other duplicate printing forms, in which case the label appairing in the plate or piates shall be destroyed immediately upon completion of the work on which it is used: Provided, if the employer having such plates desires to store them for further use he shall file with the local allied printing trades council an identifying list of such plates and agree that the employer will just send said plates to any other shop without permission of the local council.
- Sec. 4. Local allied printing trades councils shall be allowed to grant the use of the allied printing trades label to qualified shops in their respective geographical jurisdictions. The board of governors of the International Allied Printing Trades Association may order the issuance or withdrawal of the label or issue said label direct where in its judgment said action is deemed proper. With unanimous consent the board of governors may grant use of the label to qualified shops in areas where so local councils exist; such permission to be withdrawn on request of any international union. The board of governors may determine whether or not the allied printing trades label shall appear on a particular job produced in a shop authorized to use the label if the appearance of the label on such job is deemed inimical to or in the best interests of the International Allied Printing Trades Association.

Suc. 5. All labels or label matrices must be procured by local councils from the secretary-treasurer of the International Allied Printing Trades Association. Any infraction of this rule shall be deemed sufficient cause for the dissolution of the local council so offending.

of the local council so oftending.

SEC. 6. Labels shall be issued on withdrawn by unanimous consent of local councils. Labels may be issued only to firms which have signed the Label License forms furnished by the secretary of the association. Permission to use the label may be revoked only for violation of terms of the Label License or violation of regulations of the board of governors controlling use of the label. Any actions by a local council in granting or revoking permission to use the label may be appealed to the board of governors of the laternational Allied Printing Trades Association by any local union affiliated with the local council or represented in the council by a fraternal delegate, in the manner provided in Article V of this agreement.

SEC. 7. This association recomment that the efficers of each

Sec. 7. This association recognises that the officers of each union are responsible for the conditions pertaining to their craft within any one shop and that a local allied printing trades council is not a bargaining agent within the meaning



of federal law with power to represent any employs of any firm for the purpose of collective bargaining. It is understood that so long as a local union permits its mumbers to work an office it is not grouper for such union to request with drawal of the label from such office for the purpose of collecting dues or for violatius of a local union's contract or laws. When a local union calls a strike approved by its international union the council shall remove the label immediately. A local council shall not remove the label for organizing purposes.

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## ARTICLE VII

#### PINANCES

Section 1. The necessary funds for the establishment, maintenance and carrying on of this association and its work shall be under the control of the board of governors, and the same shall be furnished by the several international unions in the proportion that the total journeyman membership of each international union bears to the total journeyman membership of all the international unions parties to this agreement. For the purpose of this calculation even thousands or major fraction thereof shall be used. Each said international union shall fill with the secretary-tresilurer of this association a statement of said total membership as of July 1 of each year.

When funds are necessary, the secretary-treasurer of this association shall notify the secretary-treasurer of each union mentioned in Article II of the proportionate amount due

from said union.

Sec. 2. All funds of the association shall be deposited in bank subject to withdrawal according to regulations adopted

by the board.

SEC. 3. The members of the board of povernors shall not be paid out of the funds of this association for their services or for their expenses incurred while acting as such members of the board of governors.

SEC. 4. Should any international union withdraw from this association them such international union shall forfeit all rights and interest in and to any and all labels registered by this association and is and to all property and effects of this association.

### ARTICLE VIII

#### AMENDMENTS

SECTION 1. Any amendment proposed by any international union, party to this agreement, shall be presented at any regular meeting of this association or a special meeting called for that purpose. If the proposal is unanimously approved it shall be submitted by the Secretary-treasurer of this association to each international union for ratification or rejection, in the manner required by the laws of the respective international unions. If approved by all international unions, parties to this agreement, the amendment shall be effective upon notification by the secretary-treasurer to all international unions. Local allied printing trade councils shall also be notified.

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## PROTECT YOUR MEMBERSHIP AND. GOOD STANDING

Each member should be familiar with the laws governing good standing. The penalties of delinquency are severe, and the penalties of suspension are still more drastic. They can be avoided by payment of dues within the period specified by International law.

Lotal unions are directed by law to pay the dues and assessments of a member who "is sick or disabled, and who shows that he is in destitute circumstances" (section 8, article vii, bylaws). Sums expended by local unions for such purposes constitute a proper charge against the mortuary benefit of a deceased member. (Article, xviii, bylaws.)

Pay your own dues and assessments promptly. Report to the local union any sick and destitute member who is unable to pay his own dues and assessments and who is not informed of his rights under the law.

## CONSTITUTION, BY-LAWS and RULES OF ORDER

OF THE

# Worcester Typographical Union

NO. 165

ORGANIZED DECEMBER 11, 1885

**1**5

1954

## THIS CONSTITUTION IS PRINTED ON UNION LABEL WATERMARKED PAPER

#### PREAMBLE

We, the printers of Worcester, in order to concentrate our efforts for the general welfare of those who are employed in the art of printing, and to preserve the rights of all persons employed as aforesaid, deem it advisable and necessary to establish laws which shall govern our craft. We, therefore, do enact . and declare for our future government the following:

#### CONSTITUTION

#### ARTICLE I

#### Title, Jurisdiction and Objects

Section 1. This organization shall be known and designated as Worcester Typographical Union, No. 165, existing by virtue of a charter from the International Typographical Union.

Section 2. The jurisdiction of this Union shall be in accordance with the laws of the

International Typographical Union.

Section 3. The objects of this Union shall be the procuring and maintenance of a fair and equal rate of wages, wholesome sanitary conditions, the encouragement of good workmanship, a charitable regard for the sick and disabled, and the employment of every means which may tend to the elevation of printers in the social scale of life.

#### ARTICLE II Membership

Section 1. Any practical printer (which shall include any one who is directly engaged in the printing business, either as a compositor, machine operator, machinist, machine tender, tape perforator or proofreader, male or female) who has worked not less than six years at the business and is a competent workman in the branch of the business which he or she follows, may become a member of the Union by making proper application, and complying with the requirements of the Constitution and By-Laws.

Section 2. Beginning with the second year of apprenticeship, apprentices shall be enrolled in and complete the International Typographical Union Course of Lessons in Printing before being admitted as journeymen members of the Union. Upon request, the Union shall advance the sum required as payment for the said tuition, the apprentice to repay the Union within one year. Apprentices shall not be considered as journeymen until they have received certificates of graduation from said course.

Section 3. Every person admitted as a

member of this Union shall be introduced to the President by the Sergeant-at-Arms. The candidate having thus been presented, every member of the Union present shall rise and remain standing while the President administers the following

#### OBLIGATION:

I (give name) hereby swear (or affirm) that I will, in good conscience, and to the best of my ability, comply with and perform the Duties of Membership of the International Typographical Union, all of which shall in no way interfere with any duty I owe to God or my country.

Section 4. The candidate having taken the obligation, the President will continue:

In the presence of this Union I now pronounce you a member in good standing of Worcester Typographical Union. No. 165. May you prove faithful to the cause of which you have become a champion. You will now be conducted to the desk of the Secretary, where you will append your signature to the Constitution and By-Laws of this Union, and thereupon become entitled to all the rights and privileges which that instrument confers upon its members.

Section 5. The candidate having signed the Constitution, the Sergeant-at-Arms will introduce him by name to the Union, and

then conduct him to a seat.

#### ARTICLE III

#### Officers of the Union

Section 1. The elective officers of this Union shall consist of a President, Vice-President, Recording and Corresponding Secretary, Secretary - Treasurer, Sergeant - at - Arms, a Reading Clerk, three Trustees, three Auditors (one to be elected each year for a term of three years), three Delegates to the Allied Printing Trades Council and five Delegates to the Central Labor Union.

Section 2. These officers shall be elected annually on the third Wednesday in May, by ballot, and installed at the regular meeting in June. Preceding the election of officers of this Union, and for delegates, the presiding officer shall appoint two suitable members (subject to a decision of the Union, provided any member shall object) who, in conjunction with the Secretary-Treasurer, shall act as judges of election. It shall be their duty to receive the votes, count them, and deliver a true return to the presiding officer, who shall declare the result of such vote immediately.

Section 3. Nominations for elective officers and delegates shall be made at the regular meeting of the Union next preceding the date of election, and shall comprise none but those who have been members in good standing for six months immediately preceding

such elections. To qualify for nomination for elective office or delegate a member must have attended four of the nine regular meetings immediately prior to nominating meeting date.

Section 4. No person shall be elected an officer or delegate of this Union unless regularly nominated, as above provided, and shall have filed with the Secretary-Treasurer of this Union notice of acceptance of nomination not later than the third Monday of May.

Section 5. In all elections for officers of this Union, when there shall be more than two candidates for any office, the candidate receiving a plurality vote shall be declared elected. This section shall also govern the election of all delegates.

Section 6. No member of this Union who does not hold a current working card shall be allowed to vote.

Section 7. Previous to any officer-elect entering upon the duties of his office, he shall give assent to the following obligation:

"You pledge your honor that you will, to the best of your ability, perform the duties devolving on you as an officer of this Union; and that you will, in the position assigned, act for the general interest and benefit of its members."

#### ARTICLE IV

#### Salaries

\*Section 1. The President, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$198.00 per annum.

Section 2. The Vice-President, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$18.50 per annum.

Section 3. The Secretary - Treasurer, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$804.00 per annum.

Section 4. The Recording and Corresponding Secretary, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$105.00 per annum.

Section 5. The Reading Clerk, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$10.25 per annum.

Section 6. The Sergeant-at-Arms, for the faithful discharge of his duties, as set forth in Article V, shall receive the sum of \$10.25 per annum.

Section 7. The Auditors, for the faithful discharge of their duties, as set forth in Article V, shall each receive the sum of \$24.00 per annum.

Section 8. All salaried officers shall be given increases or decreases in salary in the percentage proportion of wage scales negotiated by Local No. 165.

## ARTICLE V Duties of Officers

Section 1. It shall be the duty of the President to preside at all meetings of the Union and of the Executive Committee; to preserve order; to call special meetings, upon the written application of ten members in good standing made at least twenty-four hours previous to the time contemplated; and to perform such other duties as naturally appertain to his office. He shall also have the deciding vote in case of equal division.

Section 2. It shall be the duty of the Vice-President to perform all the duties incumbent on the President, in the absence of that officer.

Section 3. It shall be the duty of the Recording and Corresponding Secretary to keep a correct record of all the transactions of the meetings of the Union; to furnish members against whom charges are preferred with copies of such charges within one week after being preferred. He shall furnish the chairman of every committee with a list of the names of members comprising the same. He shall, in the absence of the President and

Vice-President, call the meeting to order, and request it to elect a chairman pro tem. He shall conduct, under the direction of the President, all requisite correspondence of the Union, and attest, with the President, all bills against the Union before presentation for its approval.

Section 4. It shall be the duty of the Financial Secretary-Treasurer to receive all applications for membership, which he shall immediately place in the hands of the Membership Committee; to collect the initiation fees and monthly dues; at the close of each meeting to report amount collected; to pay all demands on the treasury when countersigned by the President and Corresponding Secretary; to keep a correct account of all receipts and disbursements of the funds committed to his care; to notify members of special meetings; to notify candidates of their election to membership, and when to appear before the Union for initiation; at the regular meetings in Jone and January, make a written report detailing the financial conditions of the Union, and make a report, in writing, of the members admitted, suspended, expelled or deceased, during the preceding term; to issue working cards, each month, to all members entitled thereto; to notify all members who are three months in arrears. He shall deposit, in the name of the Trustees, all moneys in his hands exceeding the amount

of ten dollars; to exhibit the bank-book and his accounts to the Union whenever required to do so. He shall once each month personally visit every office in the city where it is known to him a member is employed, endeavor to collect all dues and arrearages of every description, and urge upon non-members the advisability of becoming members. He shall at all regular meetings of the Union read the names of those withdrawing during the previous month. He shall make out the amount of percentage due the International Union and keep a membership record as required of local unions, and make monthly reports in conformity with the requirements of that body. He shall keep a record of all apprentices entering offices under the jurisdiction of the Union. Said apprentices shall be registered and a certificate issued to each, which certificate shall be presented to the Union when application is made for membership as a journeyman, said certificate to be as follows:

#### WONCESTER TYPOGRAPHICAL UNION NO. 165

Certificate of Apprenticeship

This is to certify that
has on this day entered the employ of
as an apprentice, at the age of
years.

Approved:

#### Employer or Foreman

#### Chairman

President, W.T.U. No. 165

Sec.-Treas., W.T.U. No. 165

Apprentice No.

Worcester, Mass., 19

In case of death of the Secretary-Treasurer, his receipts and accounts shall be sufficient vouchers against his heirs, executors and administrators.

He shall be bonded in a surety company and to such amount as the Union may determine; said bonds to be filed with the Secretary-Treasurer of the International Typographical Union. He shall also have exclusive control of the seal. The Secretary-Treasurer shall supervise all elections of this Union, for which he shall receive no additional compensation.

Section 5. It shall be the duty of the Sergeant-at-Arms to attend to the door, and, under the direction of the presiding officer, enforce compliance with the rules and regulations of the Union.

Section 6. It shall be the duty of the Reading Clerk to take care of, and read if necessary, all reading matter at the meetings of the Union.

Section 7. It shall be the duty of the Auditors to examine all the books and records of the financiar officer for the three months ending in July 31, October 31, January 31 and April 30, and report to the Secretary-Treasurer of the International Typographical Union, within fifteen (15) days thereafter, the condition of the funds and accounts, the number of members in good standing, number initiated, expelled or suspended, admitted or withdrawn by card for each month, together with such other information as the Executive Council may deem necessary. A majority of Auditors must be present at the examination of accounts, and no member of the committee shall attach his or her signature to a report unless such member shall have personally participated in such examination.

Section 8. It shall be the duty of the Trustees to provide a place of meeting for the Union; to have charge of the charter and to have the care of the funds deposited in their names by the Treasurer. They shall make a report of the property of the Union in their possession at the annual meeting, and shall turn such property over to their successors.

#### ARTICLE VI Resignations, Vacancies, Etc.

Section 1. If any elective officer shall fail to appear for installation for two successive months succeeding his election, unless prevented from so appearing by sickness or absence from the jurisdiction, he shall forfeit his office, and the same shall be filled as in case of any other vacancy.

Section 2. All elective officers of this Union, save the Secretary-Treasurer, shall have the privilege of resigning their respective office at any time by tending a written resignation in open meeting. In case the Secretary-Treasurer desires to resign, his resignation must lay over for one month from the time it is tendered, in order to effect a proper settlement of his accounts. His accounts being examined and found cor-

Section 3. All vacancies occasioned by death, resignation or other cause, shall be filled immediately by ballot, election in open meeting, judges of election being appointed by the President.

rect, his resignation may be accepted.

#### ARTICLE VII

## Dues and Assessments—Liabilities of Members

Section 1. Each member of this Union shall pay into the hands of the Secretary-Treasurer ½ of one per cent of all earnings,

and in addition such local and I. T. U. assessments as may be levied and in force, and any member who may be one month in arrears for dues or assessments shall be in bad standing and shall not be entitled to any benefit.

Any member regularly employed who may be one month in arrears for dues or assessments, shall be deprived of the privileges of working in a Union office until such delinquency shall be paid.

Section 2. Members shall stand suspended when four months in arrears for local or International dues or assessments. Suspended members shall have no standing in the organization and shall be entitled to no benefits. For reinstating suspended members, the Secretary-Treasurer shall collect such local and International Typographical Union dues and assessments as were due at the time of suspension, together with such International per capita tax and assessments as would have accrued at the time of reinstatement. In addition to this there shall be collected a reinstatement fee of \$25. Should, however, any other charge or charges appear against said member such action may be taken as may be deemed necessary by a three-fourths vote of the members present and voting at any regular meeting. The Union may expel a member for any sufficient reason, and it shall require a three-fourths vote of the members

present and voting to reinstate a member so expelled.

Section 3. In all offices where there is a Chairman, memoers shall pay their dues and assessments to said Chairman on or before 5th day of next succeeding calendar month.

Section 4. Any amount due this Unionfrom members, from any cause, shall be charged and collected in the same manner as dues.

Section 5. If at any time the liabilities of the Union shall exceed the receipts thereof, extra assessments may be ordered to a referendum vote.

A motion for an assessment for any purpose other than as provided in Article VIII, Sec. 2, may be made at any regular or special meeting, and if seconded, shall come up under the order of Unimshed Business at the next regular meeting, when, if a majority of those present and voting, shall vote in the affirmative, such assessment shall be ordered to a referendum vote.

Section 6. Dues and assessments of members may be suspended during siekness, by vote of the Union, upon request being made to the Secretary-Treasurer in writing; the local Union to be reimbursed for this expenditure by the member benefited after recovery.

## ARTICLE VIII The Funds

be displayed as follows: (1) Funeral Benefit and old Age Pension Fund; (2) Sick Benefit Fund; (3) General Fund.

Section 2. These funds shall be derived and maintained in this manner. For the Funcial Benefit and Old Age Pension Fund, an assessment of 50 cents from members working 10 or more days in a financial month. For the Sick Benefit Fund, an assessment of 50 cents a month from each member. For the General Fund, all the moneys that remain from all sources of revenue of this Union.

Section 3. No part of these funds (excepting the General Fund) shall be used for any purpose other than hereinafter set forth, except upon one month's notice previously given, and by a two-thirds vote of the members present and voting in good standing.

#### ARTICLE IX

#### Disbursement of Funds

Soction 1. Funeral and Old Age Benefit Fund—(a) Upon the decease of a member in good standing, the sum of one hundred and fifty tholiars (\$150) shall be paid the family or heirs of the deceased. (b) Newly initiated members, those admitted by card, suspended or expelled members, upon readmission, must

be members in good standing for six months before they shall be entitled to the funeral benefit. (c) Should a member take out a traveling card from this Union, and die with said card in his possession, or should a member be one month in arrears, the Union shall pay no death benefit. But, in the discretion of the Executive Committee, such deceased member may be buried at the expense of this Union, and the said committee shall have power to draw upon this fund for said purpose to the extent of not more than \$100. (d) In the absence of competent relatives or heirs, the President and Treasurer of the Union shall take charge of the burial of such deceased member. These officers shall draw the benefit money from the fund, render an account, and convey the balance, if any remain, into said fund. (e) A time limit of 90 days after the death of a member in good sanding may be required by this Union before the payment of the funeral benefit if any exigency should require it.

To each member receiving the I.T.U. pension shall be paid the sum of two (\$2.00) per week until such member becomes eligible for Social Security benefits.

Section 2. General Fund—This fund shall be used for the regular necessary expenses of the Union, and for such other purposes as two-thirds of the members present and voting at any meeting may determine, when not less than ten members in good standing shall constitute a quorum.

Section 3. Sick Benefit Fund—The revenue of this fund shall be obtained by the payment of fifty (50) cents per month by each and every member of this Union. No claims, shall be paid out of this fund but sick claims. Should the fund, at any time, become insufficient to meet the demands made upon it, said fund shall be replenished by an assessment upon the members, the amount of which shall be decided by referendum.

Section 4. Any member in good standing having been a member for six (6) consecutive months, who may become sick or disabled or quarantined on account of infectious disease, and thus prevented from following his usual occupation, shall receive ten (10) dollars per week for a period of (3) weeks, then seven (7) dollars per week for a period of ten (10) weeks, total payments not to exceed a period of thirteen (13) weeks; provided: That such sickness or disability does not proceed from disorderly or immoral conduct, and provided that it is not a chronic sickness, in which latter case the Union shall take special action.

Section 5. A member who has received sick benefits for thirteen (13) weeks in a year shall not be entitled to further benefits until one year from date of last payment on previous sickness.

Section 6. Benefits shall commence the first day of a member's disability and he shall be entitled to benefits for the first seven (7) days, provided he be disabled not less than fourteen (14) days. Such sick or disabled member shall furnish the Relief Committee a certified description of such sickness or disability from a reputable physician or practitioner on the sick claim blank provided by the Union. Payments shall be in two-week periods, unless, at the discretion of the Relief Committee, payments will be paid weekly, provided claim blanks are furnished for each period. No benefits shall be paid for a fraction of a week.

Section 7. Only members in good standing shall be entitled to benefits.

Section 8. Apprentice members may participate in the Sick Benefit Fund of the Union upon the same conditions required by a journeyman.

Section 9. The Sick Committee shall consist of the Secretary-Treasurer of the Union and the Chairmen of the various Chapels. Transportation expenses shall be granted them for the faithful discharge of their duties.

Section 10. Not more than twenty-six (26) weeks benefit shall be paid for any disability caused by any one disease or ailment nor for any permanent disability.

## Sick Benefit Claim Blank WORCESTER TYPOGRAPHICAL UNION NO. 165 Claim Blank

Full Name
When Did You Become Ill?
Name the Disease or Disability
On What Date Did Physician
First Attend You?
Date of This Report

Date of This Report
Claimant Sign Here
Street, Number

#### Attending Physician's or Practitioner's Statement

Give Date of Commencement of Illness
When and Where Did You First
Examine Claimant?
Date of This Report
Date of Final Visit by Physician
Signature
Street, Number
City State

#### ARTICLE X

### Traveling Cards — Honorable Withdrawal

Section 1. Any member on leaving the jurisdiction of this Union shall, upon application, be furnished by the Secretary-Treasurer with an International Union Traveling Card of Membership bearing date of the

period given, signed by the President and attested by the Secretary-Treasurer (or in case of death, absence, disqualification or resignation of the President, signed by the Vice-President), if it shall appear by the books of the Union that all requirements of the Constitution have been complied with, and that no charges are pending against him.

Section 2. Any person holding an International Union traveling card shall deposit such card with the Secretary-Treasurer immediately upon accepting work within the jurisdiction of this Union.

Section 3. Any member who may have retired, or who shall hereafter retire, from the business, shall upon application to the Secretary-Treasurer, with the approval of the Union, receive a certificate of Honorable Withdrawal, signed by the President and Secretary-Treasurer; provided, he shall be clear upon the books of the Union. The said certificate of withdrawal shall, if presented at the time of his return to the business, entitle the holder to full membership in this Union, and he shall be in active membership six months from the date of return before being entitled to funeral benefits.

Section 4. It shall be the duty of the Secretary-Treasurer, upon issuing a traveling card, to require the recipient to place his signature in the blank space provided for that purpose on said card; and the said officer

shall not receive a traveling card unless the holder thereof shall have first placed his signature in said blank.

#### ARTICLE XI

#### Chapels-Their Formation and Government

Section 1. In every office where there are three or more members of this Union employed, they shall form themselves into a Chapel, and elect a Chairman and Secretary, who shall serve six months, and be eligible for re-election.

Section 2. The Chairman must perform all the duties of his office, as hereinafter prescribed, as well as all other duties incident to his office.

Section 3. The Secretary must keep a record of all the doings of the Chapel, which record shall at any time be accessible to the Chapel.

Section 4. All members of the Chapel must attend all meetings thereof, if present in the office, unless leave of absence is granted by the Chairman.

Section 5. Members shall have the right to appeal from the decision of the Chapel to the Executive Committee, and from them to the Union, and I. T. U. Executive Council.

#### ARTICLE XII Secret Ballots

Section 1. All-votes upon the election of candidates for membership or upon the question of ordering or sustaining a strike; or upon the degree of punishment to be inflicted upon any officer or member convicted of misconduct; or upon a reduction, alteration or any dispute as to the construction of a scale; or in relation to the surrender of the charter, shall be taken by secret ballot, with black and white balls provided for that purpose. And in all such ballots the white balls shall mean "Yea" and the black balls "Nay."

Section 2. A three-fourths majority of white balls shall elect a candidate for membership.

## ARTICLE XIII Meeting—Quorum

Section 1. There shall be a regular meeting of the Union, held monthly, at such place and hour as the Union may elect.

Section 2. Seven members in good standing shall constitute a quorum for the transaction of business, except for appropriating money and amending the Constitution and By-Laws, when ten members in good standing shall constitute a quorum.

## ARTICLE XIV

Section 1. The Union shall adopt a scale of prices for the government of all branches of the trade under its jurisdiction.

Section 2. Alterations or amendments to the scale may be made at any regular or special meeting of the Union, upon one month's notice being given of said proposed alterations or amendments. No member shall be entitled to vote upon a proposed change in the scale of prices unless he has been a member of this Union for the previous six months, and is in good standing, and it shall require a majority vote, by secret ballot, of such qualified members present at the meeting to change an established scale of prices, the members present and voting being not fewer than ten.

Section 3. No wage or other contract shall be signed by fewer than a majority of the scale or other committee appointed for such purpose and agreed to by the Union. No conference for the purpose of scale negotiations shall be attended by fewer than a majority of committee members. Violation of the foregoing shall be punishable by a fine of Two Hundred (\$200) Dollars or expulsion, as the Union may determine.

#### ARTICLE XV

#### Altering and Amending the Constitution

Section 1. Any alteration or amendment of this Constitution must be offered at a regular meeting of the Union, and, if seconded, shall be entered on the minutes. At the next stated meeting it may be considered and amended, and if agreed to by the votes of a majority of the members present and voting (number being not fewer than ten) shall become part of the Constitution.

Section 2. Whenever a change is proposed copies of same shall be posted on all chapel bulletin boards one week before action is to be taken.

#### ARTICLE XVI

#### Permanency of the Union

Section 1. This body shall not have power to dissolve itself while there remain ten dissenting members.

#### BY-LAWS

#### ARTICLE I

#### Meetings .

Section 1. The regular meetings of this Union shall be held at 2 P. M. on the first Sunday of each month (excepting July and August, and whenever the first Sunday falls the day before or the day after a holiday the meeting will be held the following Sunday) at such place as the Trustees may provide.

Section 2. A special meeting shall at any time be called upon the written request of ten members, giving twenty-four hours' notice of the same, made to the President, stating the purpose for which such meeting is to be called.

Section 3. No business shall be transacted at any special meeting except that for which it was specially convened, and which shall be definitely stated in the notice of the meeting.

#### ARTICLE II

#### Elections and Initiations

Section 1. Application for admission into the Union may be made through any member of the same. The applicant must first deposit, or cause to be deposited, in the hands of the Secretary-Treasurer, the sum of twenty-five (25) dollars, such sum being the local initiation fee. The applicant shall also pay the required registration fee which shall be transmitted to the International Union with the name of the initiate.

At the beginning of the second year, if apprentices prove competent, they must be admitted as apprentice members of the Union.

Should a candidate, after election, fail for two regular meetings to come forward for initiation, after being notified by the Secretary-Treasurer of such election, he shall forfeit his claim to membership, together with the fee deposited, provided such delay is not caused by sickness. If a candidate be rejected the fee deposited shall be returned to him.

Section 2. Candidates for membership having been reported upon favorably by the Membership Committee, shall be balloted for, and shall be considered members from the date of election, but shall not be entitled to an International Union card of membership, nor to any benefit paid by the Union, until they have taken the obligation and signed the Constitution.

Section 3. Whenever a candidate for membership, after having been elected, is unable to be present for initiation at a regular meeting of the Union, either because of a violation of religious principles (providing such

regular meetings to be held on Sunday), or reasons that may be satisfactory to the Executive Committee, it shall be the duty of the President to appoint such time and place for initiation as shall be mutually convenient, at which time the candidate and the Recording and Corresponding Secretary of the Union shall be notified to appear. And such person, having at such time taken the obligation and subscribed his name to the Constitution, the same properly attested by the Recording and Corresponding Secretary, shall be considered to have been initiated into this body in due form and legality.

## ARTICLE III

Section 1. An Executive Committee of five members, including the Vice-President, a Membership Committee of three members, a Sanitary Committee of three members, a Label Committee of not less than five members, an Apprentice Committee of three members, a Committee on Resolutions, consisting of three members, including the Vice-President of the Union, shall be the standing committees, and shall be appointed by the President, subject to a decision of the Union, provided objection is made to any appointment.

Section 2. The President shall appoint all special committees, and shall fill all vacan-

cles occasioned by sickness, death, absence from the city, etc., unless otherwise ordered by the Union.

Section 3. The Executive Committee shall settle all matters of dispute which may arise in any office between the men employed therein and the employer, or between the men themselves, when called upon to do so; shall report all derelictions of duty on the part of members which come under their notice; shall constitute an Auditing Committee for all bills presented against the Union, which may be considered referable to a committee; shall examine the accounts and books of the Secretary-Treasurer semi-annually, or whenever required by the Union to do so, and report to the Union. They shall perform such other duties as the Union may from time to time direct.

Section 4. The Membership Committee shall receive from the Secretary-Treasurer all applications for membership as soon as possible, and if such applications are received one week previous to a regular meeting of the Union, the committee shall report in writing on the merits of the candidate at that meeting, except in cases that may conflict with I. T. U. laws.

Section 5. The duties of the Sanitary Committee shall be to visit, at stated periods, the different newspaper and job offices in their jurisdiction, and make a report of their

findings as to the sanitary conditions of places visited at the next regular meeting.

Section 6. The duties of the Label Committee shall be to cooperate with the International President, to encourage, by systematic campaign, the use of the Allied Printing Trades Council label on printed matter. It shall be the duty of such Label Committee, immediately upon organization, to forward to the President of the International Typographical Union, the name and address of the Secretary of said committee.

Section 7. The duties of the Apprenticeship Committee shall be to inquire into the educational qualifications of applicants for apprenticeship, yearly examination of each apprentice, to ascertain if he is meeting the necessary requirements called for in the several classes of work specified for each year of his apprenticeship, and if, after such examination, the committee finds the apprentice has not made satisfactory progress, it shall so report to the Union for such action as it is deemed proper to take; to require the attendance of apprentices at continuation and other schools, attendance at the meetings of the junior or senior body and report any delinquency to the Union; to encourage all apprentices in the last three years of their apprenticeship to complete the Lessons in Printing provided by the International Typographical Union.

Section 8. Burial Committee — On the death of a member in good standing the President will appoint four members to constitute a burial committee, whose duty it shall be to hold services, at which the Typographical Union ritual shall be read whenever permissible. They shall be empowered to contract expenses necessary, not to exceed ten (\$10) dollars.

Section 9. All special committees shall report in writing at the next regular meeting following completion of their duties unless otherwise directed by the Union.

## ARTICLE IV

### Dues and Cards

Section 1. The Union dues of new members shall commence at the date of election.

Section 2. Every member of the Union shall be required to have a working card, signed by the Secretary-Treasurer of the Union, which it shall be his duty to immediately present to the Chairman of the office in which he obtains work; and no member of the Union shall give encouragement to any person who shall refuse to comply with the requirements of this section.

Section 3. Any member of the Union in good standing shall be entitled to a working card, to be issued yearly by the Secretary-

Treasurer. All fines or assessments levied on members must be paid before the renewal of a working card.

#### ARTICLE V Miscellaneous

Press Notices. The President and Recording Secretary shall constitute a committee for furnishing the newspapers, in relation to the secret sessions of the Union, for publication, any items that they in their judgment see fit. Any other members so doing shall be expelled for the first offense, upon proof thereof.

Suspension of By-Laws. Any of these By-Laws may be suspended by a two-thirds vote of the members present and voting at any regular meeting.

Payment of Bills. All bills against this Union must be presented at a regular meeting of the Union before being paid.

### RULES OF ORDER

 No business shall be taken up except in the order prescribed, unless, on motion, such irregularity shall be sanctioned by a majority of the members present.

2. No motion shall be restrived or laid before the Union unless moved and seconded,
nor open for discussion until stated by the
President; and when a question is before the
Union, no other motion shall be in order,
except, first, to adjourn; second, to lay on the
table; third, to previous question; fourth, to
postpone; fifth, to refer; sixth, to amend;
which shall have precedence in the order in
which they are arranged. The first three
shall be decided without debate. The fourth
shall also be decided without debate, unless
it is proposed to postpone to a definite period,
in which case it shall be debatable.

3. Resolutions, amendments to the Constitution and By-Laws, and charges against officers and members, must in all cases be presented in writing; otherwise they shall not be considered.

 The mover of any verbal proposition shall upon request of the Chair, or two or more members, reduce it to writing.

5. Any member entitled to a vote may

move for a division of the question when the sense will admit it.

- 6. A motion to reconsider any former resolution or vote shall only be made and seconded by members who voted with the majority; provided, however, that no motion to reconsider shall be entertained after one regular meeting shall have intervened.
- 7. When a member speaks he shall erise and address the presiding officer, confining himself strictly to the merits of the question under consideration. He shall not be interrupted while speaking, unless by the presiding officer, who may call him to order or admonish him to a closer adherence to the subject, and to avoid all personalities. Nor shall a member be allowed to speak more than twice on the same subject without the permission of the presiding officer. When two or more members rise at once, the presiding officer shall decide who is to speak first.
- 8. On the call of five members for the previous question, the President shall put it in this form: "Shall the main question now be put?" And until that is decided it shall preclude all amendment to the main question, and all further debate.
- 9. The officer or member presiding in the absence of the President shall, for the time being, possess the powers and privileges vested in the President by the Constitution and By-Laws of this Union.

10. No person not a member shall be allowed to be present at a meeting without the consent of the Union.

11. In the absence of a standing rule to apply to a question before the Union, recourse shall be had to Roberts Rules of Order.

12. Questions of order shall be decided by the President; but in case of an appeal from his decision, the Union shall determine by vote without debate.

## **DUTIES OF CHAIRMAN**

 It shall be the duty of every Chairman, immediately after his election or appointment, to notify the Recording and Corresponding Secretary of the Union of such fact.

He shall thoroughly canvass the office under his charge, and use all honorable means to induce all printers employed therein to

become members of the Union.

3. He shall immediately ascertain from any stranger obtaining employment in his office whether he is a member of the Union, whether he holds a Union card, where he was last employed, how long he has worked in the city, and such other matters as may be necessary to a knowledge of his antecedents.

4. He shall collect the dues of the members of the Union employed in the office every month, turning the same over to the Secretary-Treasurer of the Union immediately thereafter, and taking the proper receipts therefor; which receipts he shall hand to their respective owners before the day of the meeting of the Union. He shall also, for the purpose, keep a small memorandum book, in which he shall enter the names of the members, and the amounts paid to him by them respectively each month; which book he shall, on retiring from such chairmanship,

turn over to his successor or to the Secretary-

5. He shall see that the law in regard to giving the preference of work to Union members is strictly carried out, and immediately report, in writing, to the President of the Union all violations thereof by members of the Union. He shall also report, in writing, all violations of the Constitution and By-Laws.

6. He shall report to the Union, when requested by the President, the condition of the office in which he may be Chairman, and such other matters as he may deem of importance to the Union.

7. He shall cause to be posted on the Chapel bulletin board all accumulated over-

time each week.

8. He shall report at once all matters of dispute between the employers and the men employed in his office to the Chairman of the Executive Committee for adjudication.

 He shall decide all disagreements or disputes between the members of the Union employed in his office; and such decisions shall in all cases be binding until reversed (on appeal) to the chapel and then to the Executive Committee.

 On leaving the office in which he may be employed, he shall immediately notify the Recording and Corresponding Secretary of

the fact.

## ORDER OF BUSINESS

- 1. Opening Prayer.
- 2. Pledge of Allegiance.
- 3. Reading of the Minutes.
- 4. Acceptance of Cards.
- 5. Reports upon Candidates.
- 6. Election and Initiation of Candidates.
- 7. Proposition of Candidates.
- 8. Nomination of Officers.
- 9. Election and Installation of Officers.
- 10. Reports of Officers.
- 11. Reports of Committees.
- 12. Reports of Chairmen of Chapels.
- 13. Reports of Delegates.
- 14. Receiving Communications.
- 15. Presentation of Bills.
- 16. Accusations and Trials.
- 17. Unfinished Business.
- 18. New Business.
- 19. Good and Welfare of the Union.
- 20. Report of Financial Secretary.
- 21. Adjournment.

## RESPONDENT'S EXHIBIT 1

Photoengravers Proposal on Jurisdiction

Received February 7, 1957

Section 2. The process of photo-engraving and its attendant work thereto is defined as being and is all operations of the process pertaining to the production of photo-engraving plates, plates for offset, and gravure cylinders and plates of any substance or material from copy or from originals and/or subjects when furnished in lieu of copy up to the finished product.

All material to be reproduced for printing purposes shall serve as copy for the camera and be processed and completed under present or future operations by members of the Worcester Photo-Engravers' Union No. 47.

The jurisdiction of the I.P.E.U. of N.A. includes photography, the handling and processing of all negatives and positives of photo-composed type film or other copy for reproductive purposes, color scanning, stripping, printing, etching, finishing, engraving, tint laying, proofing, routing, blocking, making of offset plates, dot etching, operation of photo-composing machines, the making of masks for color separations and other purposes and dropout on plates or negatives, retouching including opaquing of positives, layout and makeup work of all kinds to include the traditional set-up assembly and positioning necessary and required for the completion of the process, the marking of proofs and papers to indicate color and other corrections to be made on plates, all corrections and re-etching of plates, the operation of electronic platemaking devices and machines, the making of acetate color proofs, the making of blue, silver and velox prints.

The making from copy of negatives or positives of type, hand-lettering illustrative and decorative material by the method of photography as presently practiced by members

of the I.P.E.U. of N.A. is part of the process of photo-engraving as defined. Stripping and printing of these negatives and positives is also part of the process of photo-engraving as defined. Where these negatives and positives are to be combined with the product of the photo-typesetter (which is received as copy), by the method of stripping as presently practiced by members of the I.P.E.U. of N.A., they shall continue to be stripped by members of the I.P.E.U. of N.A.

Jurisdiction of the I.P.E.U. of N.A. also includes handling and processing of the products emanating from the phototypesetter. Should any publisher install any equipment or adopt any work processes designed as a substitute for, or evolution of, work now being done by photo-engravers, the publishers shall recognize the jurisdiction of the I.P.E.U. of N.A. over such equipment and work processes and shall make no other contract covering such work.

## RESPONDENT'S EXHIBIT 2

## WORCESTER TELEGRAM PUBLISHING COMPANY, INC WORCESTER, MASS.

February 21, 1958

Mr. Benjamin G. Hull Associate Commissioner Board of Conciliation and Arbitration State House Boston, Mass.

Dear Mr. Hull:

Your telegram regarding a conference called for 10:30 A.M. this morning in the State House, Boston, came to my

attention this morning. It is impossible on such short notice to be present. Furthermore, the parties are scheduled to appear in Worcester at a hearing before the National Labor Relations Board on Monday, February 24th, and at further hearings before the National Labor Relations Board, beginning March 17 on complaints issued by the National Labor Relations Board against the International Typographical Union and its local No. 165. These proceedings will occupy the parties.

A copy of this letter is also being delivered by messenger to Robert Segal at 11 Beacon Street, attorney for the Union.

Very truly yours, Howard M. Booth, Publisher

## RESPONDENT'S EXHIBIT 4V

### WESTERN UNION

June 10, 1954

D. H. McElroy, President Lodi Typographical Union No. 983 1900 Holly Drive Lodi, California

Taft-Hartley prohibits making membership or non-membership a qualification for work. For seven years we have been telling and printing this fact. All employees working under terms of contract share in all shop benefits. That was Supreme Court ruling even under Wagner Act.

Woodruff Randolph, President

Likha

## RESPONDENT'S EXHIBIT 4QQ

December 17, 1957

Mr. Richard J. Ryan, President Newark Typographical Union No. 103 207 Market Street, Room 509 Newark (2) New Jersey Dear Mr. Ryan:

This is in reply to your letter dated December 11 in which you ask whether or not the Taft-Hartley law prohibits a union from adopting a regulation or a local law which would prohibit an applicant from establishing priority while his application for membership is pending in the local union and subject to approval or non-approval by the membership.

The Taft-Hartley law prohibits discrimination in employment on the basis of membership or non-membership in a union. Ever since adoption of the Taft-Hartley law in 1947 the ITU has advised local unions they may not determine priority on the basis of membership in the union.

In your letter you refer to several ITU laws regarding the holding of priority and in this connection I refer you to the provisions of Section 1, Article XIV, ITU General Laws which you will find on Page 100 of the 1957 at U Book of Laws. This section states:

"In circumstances in which the enforcement or observance of previsions of the General Laws would be contrary to public law, they are suspended so long as such public law remains in effect."

Because of the Taft-Hartley law priority cannot be based on the date when an applicant is obligated as a member of the union. Even before the effective date of the Taft-Hartley Law officers of local unions were advised to refrain from issuing permits to applicants for membership. The issuance of such permits indicates a control over employment opportunities on behalf of members of the union over those who are not members. The information issued by the Executive Council was first sent out in ITU Postcard Bulletin No. 83: I am enclosing herewith for your information a copy of our Form B93 on "Issuance of Permits" covering this subject.

Trusting the above information will be of help to you and with all good wishes for a happy holiday season, I am

Fraternally, President

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Encl. - Form B93

## RESPONDENT'S EXHIBIT 4RR

December 17, 1957

Mr. E. M. Wilson, President Honolulu Typographical Union No. 37 Box 556 Honolulu (9) Hawaii

AIR-MAIL

Dear Mr. Wilson:

In reply to your letter dated December 9, this office has no authority to waive the application of particular laws or provisions of our laws which are a part of the local contract covering regulation of overtime work and the necessary cancellation thereof.

It must be remembered in this connection that the application of such laws and the contract must be without discrimination between the employment of members or non-members, so long as they are competent journeymen. If this is kept in mind ho difficulty or controversy should ensue with respect to application of any part of the Taft-Hartley law.

With kind regards and best wishes for the Holiday Sea son, I am

> Fraternally, s/WR 12/17

1-wt

ce: Gerhard Van Arkel, Esq.

### RESPONDENT'S EXHIBIT 488

February 20, 1958

Mr. Joseph Gebauer, President East Liverpool Typographical Union No. 318 315 Vine Street East Liverpool, Ohio

### Dear Mr. Gebauer:

Your letter of February 13 to President Randolph seeking information relative to charges and trial procedure was referred to the undersigned for reply.

Under the circumstances described and in view of the questions you have asked I think it is appropriate that we first direct our attention to the provisions of Section 22, Article IV, ITU Bylaws. Said Section 22 provides in part:

"The accused may, if he so desires, waive any and all rights guaranteed to him by the constitution and bylaws; and upon such waiver the union may, by a majority vote, proceed to act . . ."

The foregoing provision is pointed out because of the fact that you indicate that the member in question is "very belligerent" and "did not appear" before the investigating committee.

Next I wish to direct your attention to the provisions of Section 15, Article IV, ITU Bylaws. This particular sec-

tion sets a limit upon the penalty which may be imposed for a first offense.

Because of the fact you indicate that the member in question may refuse to pay any such fine as may be levied by your union I wish to point out that the Executive Council has ruled as follows:

"Members are required to pay all dues and assessments when due. Persons making collections must not accept per capita tax, or only a portion of ITU dues and assessments owing, unless all is paid ..."

It follows, and you have a good basis for this position, that when the local union has levied a proper fine under the charges and trial procedure that fine must be paid along with any dues and assessments which may be owing. In other words your union should not accept the member's per capita tax and assessment payment the money to cover a properly imposed fine is not a spaid.

You are correct in assuming that a convicted member, if appeal is made to the Executive Council, must place in escrow the amount of the fine in addition to having paid all dues and assessments which may have been owed. The foregoing statement is in accord with the provisions of Section 35, Article IV, ITU Bylaws.

For your information I wish to point out that Section 5. Article XII, ITU Constitution, on the "Duties of Membership" fully sets forth the duty of each member to comply with the laws, rules, regulations and decisions of the ITU and its subordinate unions. This particular section should fortify your position that the member against whom charges are pending must comply with the action of your local union if that member desires to remain a member in good standing.

Should the member fail to pay the fine which may be imposed by East Liverpool Typographical Union and should the member decline to appeal to the Executive Council your union would be within its rights to refuse to accept any further dues and assessments from said member. In time that member would become delinquent and eventually suspended for non-payment of dues. When the member is delinquent to the extent of four months he or she would stand automatically suspended for non-payment of dues. Any member so suspended and who continues to work within the jurisdiction of a local union can reaffiliate with the ITU only through making an application for new membership.

Prior to 1947 when the Taft-Hartley law was enacted the closed shop was legal. In those years preceding 1947 a member who failed to pay his dues and assessments or any fines which might be levied was prevented from working until said moneys were paid. The Taft-Hartley law outlawed the closed shop and as a result your union cannot legally prevent a person who has lost their ITU membership from working in your shop. In other words if your union fines the member in question and if that member fails to pay any further dues and assessments there is no legal step that your union can or would be permitted to take to deprive that person of his or her employment.

Trusting that I have been able to supply you with information which will prove helpful and with kindest personal good wishes, I am

Fraternally,

Second Vice-President

3:kha

## PETITIONERS' (REGIONAL DIRECTOR) EXHIBIT 1

1956 1957

PROPOSED AGREEMENT

#### AGREEMENT

THIS AGREEMENT, made and entered into this .... day of ...... by and between

through its authorized representatives, the party of the first part, hereinafter sometimes referred to as the Publisher, and Haverhill Typographical Union No. 38, a subordinate union of the International Typographical Union, by its officers or a committee duly authorized to act in its behalf, party of the second part, hereinafter sometimes referred to as the Union.

### ARTICLE 1

## 1. Term of Agreement

This agreement shall be in effect for a period of one year, beginning November 1, 1956, and ending October 31, 1957, and for such reasonable time thereafter as may be required for the negotiation of a new agreement.

### 2. Sixty Days' Notice

It is agreed that if either party to this contract desires to change it in any particular, sixty days' notice in writing shall be given before its expiration. Proposals shall be submitted by the opening party not less than thirty days prior to the expiration date.

## 3. Bargaining Agent

The Publisher hereby recognizes the Union as the exclusive bargaining representative of all employes covered by this agreement. The words "employe" and "employes" when used in this contract apply to journeymen and apprentices.

4. Journeymen and Apprentices

All composing room work shall be performed only by journeymen and apprentices. Apprentices may be employed only in accordance with the ratio of apprentices to journeymen provided in Article III of this contract.

#### 5. Jurisdiction

Jurisdiction of the Union and the appropriate unit for collective bargaining is defined as including all composing room work and includes classifications such as hand compositors, typesetting machine operators, makeup men, bank men, proofpress operators, proofreaders, machinists for typesetting machines, operators and machinists on all mechanical devices which cast or compose type or slags. or film, operator of tape perforating machines and recutter units for use in composing or producing type, operators of all phototypesetting machines (such as Fotosetter, Photon, Linofilm, Monophoto, Coxhead Liner, Filmotype, Typro, and Hadego) and employes engaged in proofing, waxing and paste makeup with reproduction proofs, processing the product of phototypesetting machines, including development and waxing; paste makeup of all type, hand lettered, illustrative, border and decorative material constituting a part of copy; ruling; photoproofing; correction, alteration, . and imposition of the paste makeup serving as the completed copy for the camera used in the plate making process. Paste makeup for the camera as used in this paragraploincludes all photostats and prints used in offset or letterpress work and includes all photostats and positive proofs of illustrations (such as Velox) where positive proofs can be supplied without sacrifice of quality or duplication of efforts. The Publisher shall make no other contract covering work as described above, especially no contract using the word 'stripping' to cover any of the work above mentioned.

Unless otherwise specified in this agreement, all teletypetter tape shall be perforated by journeymen or apprentices covered by this agreement.

#### 6 Foreman

The hiring, operation, authority and control of each composing room shall be vested exclusively in the office through its representative, the foreman; who shall be a member of the Union. In the absence of the foreman, the foreman-in-charge shall so function.

All orders, instruction, reprimands, etc., must be given through the foreman who shall have the right to assign men to any composing room work he deems necessary.

### . Journeyman Defined

In view of the agreement in Section 4 hereof that only journeymen and apprentices are to be employed, and since it is the desire and intent of the parties to assure insofar as possible the continued maintenance of a high degree and skill in the journeyman classification and a correspond ingehigh degree of quality and quantity of production, it is mutually agreed that journeymen are defined as: (1) Persons who prior to the effective date hereof worked as journeymen in the composing rooms of the Publisher; (2) Persons who have completed approved apprentice training as provided in this contract, or have passed a qualifying examination under procedures heretofore recognized by the Union and the Publisher; (3) Persons who have passed an examination recognized by both parties to this contract and have qualified as journeymen in accordance therewith. Persons seeking to qualify as journeymen shall be given an examination under non-discriminatory standards and procedures established by the parties hereto (or the Joint Standing Committee), by impartial examiners qualified to judge journeyman competency selected by the parties hereto (or the Joint Standing Committee). In the event agreement cannot be reached on the standards or procedures to be followed, or the examiners to conduct such examination, the dispute shall be submitted to the Presiding Justice of the Haverhill District Court whose decision shall be final and binding on the parties. In hiring new journeyman employes the foreman may not exclude as candidates for employment any individuals who have established competency as journeymen, but must recognize priority as follows: First: Regular situation holders. Second: Subject to established hiring practices, other journeymen who have worked in the composing room. Third: Individuals concerning whose competency as journeymen the foreman has no reason for doubt or persons who have registered for employment after having passed the examination hereinbefore mentioned.

## 8. Observance of Union Laws

This contract alone shall govern relations between the parties on all subjects concerning which any provision is made in this contract and any dispute involving any such subjects shall be determined in accordance with the arbitration clause in this agreement.

The General Laws of the International Typographical Union, in effect January 1, 1956, not in conflict with law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract.

Nothing contained herein shall be construed to interfere in any way, with the creation or operation of any rules not in conflict with law or this contract by any chapel or by the Union for the conduct of its own affairs.

## 9. Struck Work

The Employer agrees not to require employes to perform composition or other work executed or to be further worked on, wholly or in part, by exployes working in plants declared unfair by the union.

#### 10. Arbitration

A joint standing committee of four members shall be appointed, two of the four to be named by the Publisher and two by the Union. In case of a vacancy on this joint standing committee from any cause, said vacancy shall be filled by the appointment of a new member by the party in whose representation on the joint standing committee the vacancy occurs. To this committee shall be referred for settlement all disputes which may arise as to the scale of prices hereto attached, the construction to be placed on any chause of the agreement or alleged violation thereof, all disputes regarding discharged men which cannot be settled otherwise. The joint standing committee must meet within five days from the date on which either party notified the, other party in writing that a meeting is desired, and shall proceed forthwith to settle any question before it. Such decisions shall be final and binding on both parties to this agreement. If the joint committee cannot reach an agreement on any dispute within ten (10) days (which time may be extended by unanimous agreement) from the date on which the dispute is first considered by it, the members of the committee, at the request of either party hereto, shall form a Board of Arbitration and shall elect a fifth member, who shall act as chairman of the board. The board of arbitration thus formed, shall proceed with all dispatch possible, to settle the dispute. It shall require the affirmative votes of at least three of the five members of the board of arbitration, to decide the issues, and the decisions of the board of arbitration in all cases shall be final and binding on the parties hereto. The decision of the board of arbitration shall be legal and binding when signed by a major-

Pending a final settlement of discharge cases, discharged employe may be barred from the composing room. If reinstated by the board, he shall be reimbursed for all time · lost on a straight time basis, as provided in this contract.

Local Union laws not affecting wages, hours or working conditions and the General Laws of the ITU shall not be subject to arbitration.

## ARTICLE 2

### 1. Orertime

All time worked before or in excess of the regular hours established for the day's or night's work or at the end of a week's work shall be paid for at the overtime rate, which shall be double time based on the regular hourly wage paid.

: When any employe is required to work on regular off-day or off-night or the sixth or seventh shift in any financial week, said employe shall be paid overtime for such work.

2. Holiday Rates

All work performed on Sundays, New Year's Day, February 22, April 19, Memorial Day, July Fourth, Labor Day. October 12, November 11, Thanksgiving Day and Christmas shall be paid for at the rate of double time.

Regular situation holders not required to work on the specified holidays or days celebrated as such will be paid . at the regular straight time rate for a day's or night's work as specified in the agreement.

When recognized holidays fall within the three weeks vacation period said holidays be celebrated on first schedpled shift following vacation period. When employe is called to work on said scheduled shift following vacation period he shall be paid at double the prevailing rate.

When recognized holidays fall on regular off day employes shall be given another off day in holiday week during work week. When employe is called to work on said shift, he shall be paid double the prevailing rate.

## 3. Not Less Than Day's Pay .

In no case shall an employe receive pay less than a full shift except when discharged for cause or excused at his own request.

### 4. Call-Back

Employes called back after having left the office shall be paid \$2.00 for such callback and overtime rates for all time worked.

### 5. Exchanging Type, etc.

The interchanging, exchanging, borrowing, lending or buying of matter, either in the form of type or matrices between newspapers, between job offices, or between newspaper and job offices, not owned by the same individual firm or corporation, and published in the same establishment, shall not be allowed unless such type or matrices are reset as nearly like the original as possible, made up, read and corrected and a proof submitted to the chairman of the office. Transfer of matter between a newspaper office and a job office, or a job and a newspaper office, where conducted as separate institutions and from separate composing rooms, owned by the same individual, firm or corporation, is not permissible unless such matter is reset as nearly like the original as possible, made up, read and corrected and a proof submitted to the chairman of the office. Provided, that where an interchange of matter from an English publication to a foreign language publication, or vice verst, is desired, under the provisions of this section, such exchange shall be regulated by agreement between the employer and the local unions interested. The time limit within which borrowed or purchased matter or matrices, are to be

reset, shall be ten days from date of use. If matter is not reproduced within time limit specified, it shall be reproduced as soon as help is available. In no circumstances shall such reproduction be required other than at straight time rates and such reproduction shall not be required when so doing would necessitate overtime rates on other advertising composition in the composing room.

This section shall not apply to original commercial composition purchased from commercial trade composition plants or other composing rooms when such composition is an integral part of production of a particular commercial

job.

Matrices, plates, cuts, or type of local advertisements, or other local matter, furnished to newspaper offices may be used by such offices, provided such matter shall be reproduced as nearly like the original as possible within the time limit specified herein. It is understood that this rule does not apply to national advertising, or printed supplements and magazines, or syndicate and other feature news matter in matrices, cuts or plates.

A local advertisement is: Any advertisement originally set within the jurisdiction of party of the second part; any advertisement, wherever set, advertising the business of any concern that is in the local field. The addition of names and addresses of local selling agents to national advertising

does not make them local advertisements.

6. Discharges

Foreman of printing offices shall have the right to employ help, and may discharge (1) for incompetency, (2) for neglect of duty in the performance of composing room work, (3) for violation of office rules which shall be kept conspicuously posted and which shall in no way abridge the civil rights of the employes or their rights under herein accepted International Typographical Union Laws, and (A) to decrease the force, such decrease to be accomplished by discharging first the person or persons last employed, either as regular employes or as extra employes, as the exigencies of the case may require.

No employe who has been discharged from the office shall be eligible to sub except at the option of the foreman, but this shall not apply to men laid off to reduce the force: Provided, that after three months any former employe may seek employment in any office from which he has been discharged.

No foreman shall be subject to fine, discipline or expulsion by the Union for any act in the performance of his duties as foreman when such action is authorized by this Agreement, or for enforcing Office rules, or for carrying out the instructions of the Office when there is a difference of opinion as to the interpretation of this Agreement. Such difference of opinion shall be subject to arbitration under Article I, Section 10.

## 7. Reason for Discharge in Writing

Upon demand, the foreman shall give reason for discharge in writing which demand shall be made within 72 hours after the employe is informed of discharge.

## Ability and Priority of Substitutes

Persons considered capable substitutes by foreman shall be deemed competent to fill regular situations, and shall be given preference in the filling of vacancies in the regular force, and also extra work. The substitute eldest in continuous service shall have prior right in the filling of the first vacancy, and also extra work. This section shall apply to incoming and outgoing foremen.

## 9. Sanitary Regulations

The Publisher agrees to furnish at all times sufficiently

ventilated, properly heated and well lighted places for the performance of all work in the composing room.

### 10. Vacations

(a) Number of Days

Vacations with pay shall be provided for each employe on the basis of one day's vacation for each 20 days worked. It is agreed that the total vacation time shall not exceed 10 days except as provided in Paragraph (d) of this section. Employes shall have the choice of vacations in priority order.

. (b) Rate

It is agreed that compensation for vacation shall be at the rate of pay for the shift on which the employe is employed, Employes receiving premium pay shall be paid at said rate while on vacation. All money for vacations shall be paid in advance.

4 (c) Posted April 15th

Vacation schedules shall be posed on or before April 15th for the vacation period of the particular year that is in effect, with allowances for arrangements agreed outside of the summer months.

(d) Third Week of Vacation

An additional vacation with pay of five days will be given to an employe who on January first of each year has completed at least ten years of service with the Publisher.

(e) Regular Rates

In the event an employe works during his vacation period at the request of the Publisher, he shall be paid at double price in addition to his vacation pay.

(f) Covered at Foreman's Discretion

The foreman shall use his own discretion in the covering of any situation that is open during the situation holder's absence while on vacation.

## (g) Vacation Credits for Employe

Any employe leaving his place of employment voluntarily or otherwise shall be entitled to and receive his vacation credit pay on a pro rata basis.

## (h) Vacation Credits Paid To Estate,

Upon the death of an employe with established vacation credits, all vacation credits accrued shall be paid immediately into the estate of the deceased employe.

## (k) Sick Leave

All employes of The Gazette composing room who are working a regular week schedule will be entitled to receive their regular pay for any period, up to two weeks, in which they are absent because of illness; provided, however, that whenever the aggregate of illness pay received by any employe during any calendar year of this agreement shall equal or exceed two weeks; no further illness pay to such employe shall be given during that calendar year, except by agreement of the employer or its representative and the Union or its representative.

If an employe is out any period longer than two weeks he may apply any part of his vacation time on such time if he so wishes.

## 11. Right to Employ Substitutes

The right of any employe to put on a competent substitute shall be confirmed and continued and the foreman shall use his utmost efforts to temporarily shift the force to facilitate the full exercise of said right.

Provided no employe shall work on his off-day or offnight or on his sixth shift without permission of the foreman.

Employes may claim new shifts, new starting times, choice of vacation schedules, and new slide days in accordance with their priority standing.

### ARTICLE 3

## Apprentices

### 1. Ratio

The ratio of apprentices shall be one to every eight journeymen, until three apprentices are employed.

## 2. Age, Term and Duties

Apprentices shall not be less than eighteen years of age at the time of beginning their apprenticeship and shall serve a term of six years. The foreman and chairman shall see that apprentices are afforded every opportunity to learn the different trade processes by requiring them to work in all classifications of the trade. When apprentices show proficiency in one branch they must be advanced to other classes of work.

The Joint Apprenticeship Committee shall establish a training program for apprentices. The training program of printer apprentices shall include thorough training under journeymen on all phases of floor work such as, hand composition, makeup, markup, and proof-reading. Where pastemakeup is used or where training on paste-makeup is available it shall be taught during the first five years of apprenticeship. In addition, at least one year of the training program must be devoted to training on one or more of the following: Linecasting machines, monotype keyboard and caster, teletypesetter tape perforator, or phototypesetting keyboard. Machinist apprentices must be trained in all phases of maintenance and repair of composing room equipment under the direction of a journeyman machinist. The Joint Apprenticeship Committee shall have authority to vary training programs to meet the problems arising because of varying equipment and shall have authority to direct temporary transfers of apprentices from one shop

to another to accomplish as much all-round training as may be suited to the capacity of the apprentice.

## 3. Working Conditions.

Apprentices shall be governed by the same shop rules, working conditions and hours of labor as journeymen.

#### 4. Overtime

No apprentice shall be employed on overtime work in an office unless the number of journeymen employed on overtime on the same shift equals the ratio prescribed herein.

At no time shall an apprentice be authorized to act in a supervisory capacity.

## 5. Opportunities

Haverhill Typographical Union, No. 38, reserves the right to refuse to allow an apprentice to any office that has not the equipment to afford instruction being given in the different branches of work agreed upon.

## 6. Shifting Jobs

No apprentice shall discontinue work on one shift and accept work on another shift or change from one employer to another without the consent of Haverhill Typographical Union, No.°38.

## . Apprentice Committee

A Joint Apprenticeship Committee composed of an equal number of representatives of the Union and Employers shall be selected by the parties to this agreement. All provisions of this agreement affecting apprentices shall be under the jurisdiction of this committee, which shall have control of, and be responsible for, the selection of apprentices and shall be vested with full power and authority to enforce all conditions outlined herein. Should the commit-

tee fail to agree on any question the matter shall be sufmitted to an arbitrator as provided in the Joint Standing. Committee section thereof whose decision shall be final and binding.

## 8. Military Sérvice

No new apprentice will be permitted to replace those who enlist in or are called for service in the military services of the United States of Canada (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the governments of said countries. No new apprentice will be permitted to replace those drafted in the military or naval services of the United States or Canada. However, temporary apprentices to replace those in military services will be permitted upon new applicant signing an agreement stating that he is aware that he is taking the place of an apprentice who has been called to service and that he agrees to vacate the job upon return of the original apprentice. Upon again reporting for duty the situations and standing formerly held by these appren, tices shall be restored to them.

## ARTICLE 4

## 1. Hours

All work whether by machine or hand, shall be on the time basis. A week's work shall consist of 35 hours, made up of five equal shifts.

A lunch period of at least thirty (30) minutes shall be allowed for each shift, such time not to be included in the number of hours specified for a day's or night's work.

## 2. Hours for Day and Night Work

The hours for day work shall be between 7 a.m. and 6 p.m. Night work shall be between the hours of 6 p.m. and 6 a.m. Any shift not beginning and ending between 7 a.m. and 6 p.m. shall constitute a night shift.

## 3. Foreman Assign Days

The particular days constituting a situation shall be assigned by the foreman and the hours on each shift of the situation shall be fixed. Neither shall be changed except at the beginning of a financial week. Insofar as practical the five shifts constituting a situation shall be consecutive.

### 4. Rates of Pay

From November 1, 1956, to October 31, 1957, the regular straight time day rate shall be \$97 per week. The night rate shall be 15% more than the day rate.

## 5. Apprentice Scale

Apprentices shall receive rates not less than 40 per cent or \$1 per hour (whichever is the greater), 50 per cent, 60 per cent, 70 per cent, 80 per cent and 90 per cent of the journeyman scale, in each of the six years respectively.

## 6. Machinists

Machinists employed in composing rooms shall receive not less than the adopted scale for journeymen for day or night work as the case may be and must be journeymen. They shall have no control over the operator. No operator shall be compelled to do the work of a machinist.

## 7. Scale for Aged Employes

Any employe, who, by reason of advanced years or other cause, may not be capable of producing an average amount of work, may, by agreement between the employer and the Union, be paid less than is called for by the scale. Not more than two (2) employes can be listed under this classi-

fication, and in any event shall receive not less than so of the scale for the shift on which they are employed.

8. Blue Cross-Blue Shield

Beginning with date this contract becomes effective the Publisher agrees to pay premiums of Blue Cross and Blue Shield plans that were in effect January 1, 1956, and were paid for by the individual employes.

9. Picket Lines

No employe covered by this contract shall be required to cross a picket line established because of an authorized strike by any other subordinate union of the International Typographical Union.

10. Severance Pay

In event of consolidation or suspension, all employes affected shall receive severance pay of not less than two weeks' pay at the regular rate for each year's priority up to 26 weeks.

11. Pension Plan

The employer agrees to establish a pension plan covering composing room employes with these features: (1) Retirement to be at the time chosen by a disabled employe after attaining the age of 60 years without direct or inclination of the employer. The question of disability to be determined by a joint agency composed of an equal number of representatives of the party of the first part and party of the second part, (2) Amount of weekly pension to be 50 per cent of employe's highest rate of pay during period of employment.

#### ARTICLE 5

### 1. Tatt-Hartley Act

Upon repeal or amendment of the Taft-Hartley Act, any clauses contained in this agreement because of the restrictions of the act or court decree rendered thereunder shall automatically become null and void unless kept alive by an applicable state law.

## 2. Change in Laws.

If any provision or practice prevailing under previous contracts which has been excluded from this contract solely because of legal restrictions is determined by legislative enactment or by decision of the court to be legal, then such provisions shall upon written request of the Union be immediately effective and enforceable hereunder.

## 3. ITU Not a Party to Contract

It is agreed that the only parties to this agreement are the Employer and the Union. It is further agreed that the approval of this agreement by the International Typographical Union as complying with its laws does not make it a party thereto.

| Signed this | • | <br>of |     |        |
|-------------|---|--------|-----|--------|
|             |   | <br>,  |     | ****** |
|             |   |        | 100 | *      |

This agreement is approved as being in compliance with laws of the International Typographical Union, as limited by the Taft-Hartley Law, and the undersigned, on behalf of the Executive Council of the International Typographical Union, hereby pledges, as a matter of union policy only, its full authority under its laws to the fulfillment thereof without becoming party and without assuming any liability thereunder.

## INTERMEDIATE REPORT.

Case No. 1-CB-429 Case No. 1-CB-430

### STATEMENT OF THE CASE.

Upon separate charges duly filed by Haverhill Gazette Company and Worcester Telegram Publishing Company, Inc. (herein referred to as Haverhill and Worcester or collectively as the Companies) the General Counsel of the National Labor Relations Board, by the Regional Director for the First Region (Boston, Massachusetts) issued separate complaints, dated February 6, 1958, against International Typographical Union, its Executive Council, and International Typographical Union Local 38 and Local 165 and its Scale Committee (herein referred to as ITU, Local 38 and 165, or the Union, and collectively as the Respondents), alleging that the Respondents have engaged in and are engaging in certain acts and conduct in violation of the Act. The cases were consolidated for the purpose of hearing by order of the Regional Director. The Respondents filed separate answers to the complaints admitting certain allegations therein but denying the commission of any unfair labor practices.

Pursuant to notice a hearing was held in the Worcester case, at Worcester, Massachusetts, on April 2, 3, 4, and 29, 1938. All parties were represented by counsel and afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce relevant evidence and to present oral argument. On April 29, 1958, certain stipulations were received in evidence with the understanding that the record remain open for 1 week so that counsel might have an opportunity to submit further evidence or exhibits. Having received no such request from counsel I entered an order closing the hearing as of May 8, 1958, and advised counsel

of their right to file briefs in the matter. Thereafter, about August 1, 1958, counsel for the General Counsel, the Respondents and Worcester submitted briefs which I have fully considered.

Upon the entire record in the case, and from my observation of the witnesses, I make the following:

### FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANIES

Haverhill is engaged in the business of publishing a daily newspaper and maintains its principal office, publishing plant, warehouses and other facilities at Haverhill, Massachusetts. In the year preceding the issuance of the complaint Haverhill held membership in, or subscribed to, various interstate news services, including United Press Association and Associated Press, advertised nationally sold products and its gross revenue from its publishing operations was in excess of \$500,000.

Worcester is engaged in the business of publishing a daily newspaper and maintains its principal office, publishing plant, warehouses and other facilities at Worcester, Massachusetts. In the year preceding the issuance of the complaint Worcester held membership in, or subscribed to, various interstate news services, including Unted Press Association and Associated Press, advertised nationally sold products and its gross revenue from its publishing operations was in excess of \$500,000.

♠I find that Haverhill and Worcester are engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

# II. THE LABOR ORGANIZATIONS INVOLVED

I find that ITU and Locals 38 and 165 are labor organizations as defined in Section 2 (5) of the Act.

I also find that the executive council, consisting of Wood-ruff Randolph, Charles M. Lyon, Harold H. Ciark, Joe Bailey, and Don Hurd and their successors, is an agent of ITU within the meaning of the Act, and the scale committee is an agent of Local 165 within the meaning of the Act.

## III. THE UNFAIR LABOR PRACTICES

### A. The Pleadings

The complaints allege that at all times material the Respondents were the representatives of the employees of Haverhill and Worcester, respectively, in a unit defined as employees engaged in composing room work. The complaints further allege that since about May 29, 1957, in the Haverhill case and about June 2, 1957, in the Worcester case, the Respondents have caused and attempted to cause the Companies to discriminate against their employees, or applicants or prospective applicants for employment, by insisting upon the inclusion of the general laws of the ITU as a condition precedent to the execution of a collective bargaining agreement as well as certain other contract provisions which would require the Companies to employ only ITU members, give preference to such members in respect to hiring; increase or decrease in the work force and employment of substitutes and delegate to Local 38 and Local 165 control over the seniority of composing room employees. It is further alleged that the Respondents failed and refused to bargain in good faith with the Companies by adamantly insisting upon inclusion of such terms as a condition precedent to the execution of an agreement and that the Companies designate only a union member as composing room foreman for the purposes of collective bargaining and adjusting grievances. In addition the complaints allege that the Respondents insisted upon acceptance of their work jurisdiction clause, that it, the demand that the Companies bargain with respect to the hire, tenure and terms of employment of persons and employees not included in the appropriate unit and or job classification not in existence and not included with the unit. When the Companies refused to agree to these conditions the Respondents directed, instigated and encouraged their employees to engage in strikes, the Haverhill strike commencing about October 25, 1957, and the Worcester strike about November 29, 1957, which were current at the time of the hearing. By reason of the above acts and conduct the complaints allege that the Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (b), subsections 1 (A) and (B), (2) and (3) of the Act.

The Respondents in their answers deny the foregoing allegations and assert that any existing labor disputes are the result of unfair labor practices on the part of the Companies including discrimination against ITU members in violation of Section 8 (a) (3) of the Act and refusals to bargain in violation of Section 8 (a) (5) of the Act.

# B. The Records and Stipulations of Counsel, Background of the Cases

As already stated the hearing in the Worcester case was held before me on various dates in April 1958. During the hearing counsel stipulated that the testimony of Woodruff Randolph, president of the ITU, adduced at the hearing in News Syndicate Company, Inc., et. al. (New York Mailers case), Cases Nos. 2-CA-4967, 2-CB-1769 and 2-CB-1807, be incorporated in the record of this proceeding.

Counsel further stipulated that the record in ITU, et al., and Worcester Publishing Company, Inc., Case No. 1-CD-49, a hearing pursuant to Section 10 (k) of the Act, be incorporated herein.

The parties stipulated the record in Alpert v. ITU, an injunction proceeding under Section 10 (j) of the Act, in

the United States District Court for the District of Massachusetts, before Judge Aldrich, as the record in the Haver-hill case.

While the facts in the cases differ the issues presented in each are the same, so for the purposes of discussion and resolution of the issues they will be considered together.

At this point it seems appropriate to briefly outline two previous cases involving the ITU for they afford not only background of the issues herein but were the subject of discussion during the bargaining negotiations in the Worcester matter.

Pursuant to proceedings based upon a charge filed by the American Newspaper Publishers Association (herein called ANPA) against the ITU and three of its officers, the Board on October 28, 1949, issued its decision (86 NLRB 951) adopting the Trial Exander's findings that the intended and actual effect of the ITU's bargaining policy, following enactment of the Taft-Hartley Act, was to compel employers to exclude nonmembers from employment. The Board also adopted the Trial Examiner's finding that the ITU violated Section 8 (b) (2) of the Act by applying coercive pressures in the newspaper industry in order to compel employers to conduct their labor relations pursuant to a "bargaining" scheme designed primarily to effect the maintenance of "closed shop" conditions. The Board found that the ITU's bargaining programs known as "Conditions of · Employment" or "no-contract" strategy and the "P-6A," or "60-day contract" strategy, each of which incorporated or included the ITU general laws, were violative of the Act. Under the no-contract plant the ITC set forth the "only" conditions under which its members would work, one condition being they would not work with nonunion men, and embodied the threat that failure of employers to provide the stated conditions would result in declarations by the Unions, pursuant to the general

laws, of a "lockout." The only difference between the nocontract strategy and the 60-day contract, the Board held. was that under the latter reprisal action might be postponed for 60 days. The Board specifically refused to pass upon the question of whether the ITU violated Section 8 (b) (2) by demanding the inclusion in the 60-day contract of certain miscellaneous union-security clauses covering work jurisdiction of the Union, competency of composing room employees and the operation of the ITU general laws. for the reason that the bargaining strategy was designed to maintain closed shop conditions under penalty of strike. action. The Board further found that the ITU demand that employers continue to hire only union foreman whose powers were detailed in the general laws, under threat of strike action, which was an integral part of its bargaining policy, thereby attempted to compel to limit the selection of this type of foreman to a class composed only of union members in violation of Section 8 (b) (1) (B) of the Act. The Board dismissed the Section 8:(b) (1) (A) allegations of the complaint and did not find a violation of refusal to burgain because the complaint did not allege a violation of Section 8 (b) (3) of the Act. On the basis of these findings the Board issued an order directing the ITU to cease and desist from engaging in the unfair labor practices thus found and to post notices.

On the same date the Board issued its decision and order in the Chicago Typographical Union No. 16 and the ITI case (86 NLRB 1041) wherein similar findings were made, except that the Board found the Respondents had refused to bargain in violation of Section 8 (b) (3) of the Act.

Thereafter the Board filed petitions for enforcement of its orders and the ANPA filed a petition for review in its case insofar as the Board failed to find a refusal to bargain on the part of the ITU. (ANPA v. ITU, et al., 193 F. 2d 782 (C. A. 7).) The Court granted enforcement of the

Board's orders. The Court further held in the ANPA case (799-800) that there was evidence to support a finding of refusal to bargain even though there was no 8 (b) (3) allegation in the complaint and remanded the matter to the Board for consideration and decision upon the merits of the charge.

On May 6, 1953, the Board, pursuant to the remand, issued its supplemental decision and order (104 NLRB 806) in which it found that the local negotiators represented the interests of the ITU and exercised bargaining poters granted by it and that the ITU and its officers had failed to bargain collectively in violation of the obligations imposed by Section 8 (b) (3) of the Act. The order of the Board directed the ITU and its officers to cease and desist from refusing specifically, or by insistance, upon the 60-day contract, or any other means, to bargain collectively in good faith with any employer in the newspaper industry, when the employees of such employer comprise an appropriate unit and a majority have designated or selected the ITU to represent them for the purposes of collective bargaining.

On February 25, 1948, in an ancillary proceeding to the ANPA case, the United States District Court for the Southern District of Indiana issued an injunction pursuant to Section 10 (j) of the Act, Evans v. ITU, 76 F. Supp. 881: The Court found that there was probability that the Respondents herein violated Section 8 (b) (1) (A) and (2) of the Act and ordered the Respondents to refrain from

engaging in certain conduct.

Upon the Board's petition to adjudge the Respondents in contempt the Court found, "the Respondents have deliberately attempted since issuance of the injunction to accomplish the objectives against which the injunction was directed, namely, the continuance of closed shop conditions in the newspaper industry." (81 F. Supp. 675, 688.)

#### THE WORCESTER CASE

There is little, if any, dispute of the substantive facts in this matter. The evidence concerning bargaining negotiations comes primarily from Richard G. Steele, general manager of Worcester, and Joseph R. Mahoney, president of Local 165, witnesses for the General Counsel and Respondents, respectively. The General Counsel also called as witnesses, William B. Weinrich, production manager of Worcester and William B. Parry, assistant manager of New England Daily Newspaper Publishers. Association. From the testimony of these witnesses I find as follows:

Local 165 has represented the composing room employees of Worcester for over 70 years and the last contract be

tween the parties expired December 31, 1954.

During 1954, representatives of the Company and Local 165 met on 3 or 4 occasions and on 7 occasions in 1955, but were unable to reach agreement on a complete contract. However, around June 1955, following these meetings, the Company granted a wage increase, retroactive to January 1/1955, and informed the employees of this action by written notice placed in their pay envelopes. Mahoney, "in the jargon of the union," characterized this as a voluntary increase. The next meeting, according to Mahoney, was held in July 1956, at which time representatives of Worcester claimed the 1955 pay increase indicated a tacit agreement had been reached, which was denied by representatives of Local 165, and the meeting concluded with the union representatives agreeing to submit a new contract proposal to the Company to serve as a basis for negotiations.

On August 21, 1956, James J. Quinn, then president of Local 165, sent a letter to Steele requesting that negotiations be reopened and submitted contract proposals. There after the parties held six meetings in 1956, commencing about October 14, and a similar number in 1957. At these meetings, generally speaking, Worcester was represented

by Frank Phillips, manager of New England Daily Newspaper Association, Alfred S. Arnold, production manager, Howe C. Montheith, cost and methods engineer, and Steele, with Phillips acting as spokesman for the group. Local 165 was represented by Quinn while president and Mahoney, when he succeeded Quinn, and the local scale committee. In January 1957, Attorneys Elisha Hanson and Robert Bowditch entered negotiations on the part of the Company while William LaMothe, an international representative of ITU, joined the representatives of Local 165, in the negotiations.

THE 1954 CONTRACT; THE PROPOSALS OF LOCAL 165, AND THE ITU GENERAL LAWS

Since the negotiations centered principally on demands of Local 167 concerning jurisdiction, the incorporation of the ITU general laws and the foreman's clause, it is appropriate to point out these provisions as they appear in the 1954 contract, the proposals of Local 165 and the specific general laws which the General Counsel alleges to be unlawful.

The 1954 contract stated:

The jurisdiction of the Union is defined as including all composing room work in shops covered by this contract and includes classifications such as hand compositors, typesetting machine operators, make-up men, bank men, ad men, proofreaders, machinists for typesetting machines, operators, and machinists on all mechanical devises which cast or compose type or slugs.

With respect to foreman the contract provided:

The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union . . . Provided that nothing in the section shall be construed to conflict with the right

of the members holding situations to employ competent substitutes without consultation or approval of foremen. The contract stated that it shall govern in regard to all subjects covered therein and incorporated the general laws of the ITU, "not in conflict with state or federal law, shall govern relations between the parties on those subjects conterning which no provision is made in this contract."

The proposals submitted by Local 165 contained the above clauses relating to foreman and ITU general laws and a new jurisdiction provision, claiming;

Jurisdiction of the Union and the appropriate unit for collective bargaining is defined as including all composing room work and includes classifications such as: Hand compositors; typesetting machine operators; make-up men; bank men; proofpress operators; proofreaders; machinists for typesetting machines; operators and machinists on all mechanical devices which cast or compose type. slugs, or film; operators of tape perforating machines and recutter units for use in composing og producing type; operators of all phototypesetting machines (such as Fotosetter, Photon, Linofilm, Monophoto, Coxhead Liner, Filmotype, Typro and Hadego); employees engaged in proofing, waxing and paste-makeup with reproduction proofs, processing the product of phototypesetting machines, including development and waxing; paste-makeup of all type, hand-lettered, illustrative, border and decorative material constituting a part of the copy; ruling photoproofing; correction, alteration, and imposition of the paste-makeup serving as the completed copy for the cain era used in the plate making process. Paste-makeup for the camera as used in this paragraph includes all photostats and prints used in offset or letterpress work and includes all photostats and positive proofs of illustrations (such as Velox) where positive proofs can be supplied ithout sacrifice of quality or duplication of efforts. The

Employer shall make no other contract covering work as described above, especially no contract using the word "stripping" to cover only of the work above mentioned. Unless otherwise specified in this agreement all teletypesetter tape shall be perforated by journeymen or apprentices covered by this agreement.

The General Counsel contends, as alleged in his complaint, that the following provisions of the ITU general laws create unlawful employment conditions and are violative of the Act:

Article III, Section 12: It is unalterable policy of ITU that all composing room work, or any machinery or process appertaining to printing and the preparations therefor, belong to ITU, and all local unions of ITU are directed and required to reclaim jurisdiction and control over all such work being performed by persons who are not members of ITU or any ITU local union.

Article 1, Section 4: Any person before entering the trade as an apprentice must first be approved by the ITU local union.

Article 1, Section 5: No apprentice may leave the employ of one employer and enter the employ of another employer without the written consent of the president of the ITU local union.

Article 1. Section 7: At the end of the first year, if an apprentice proves competent and the foreman and apprentice committee recommend him for membership he must be admitted to the union as an apprentice member.

Article I, Section 11: Beginning with the second year apprentices must be in possession of an apprentice working card issued by the anion.

Article I, Section 19: At least two members of the local union must be regularly employed as journeymen before the employer can engage an apprentice.

Article V, Section 11: All foremen and journeymen employees must active members in good standing of the union.

Article VII, Section 1: Only members of ITU shall be permitted to operate the various composing room machines and devices used to process the products thereof. Article VII, Section 5; Article VIII: Only members in good standing of ITU may be employed in installing, operating, maintaining, servicing and repairing the various machines and other mechanical devices used in composing, imposing, processing and casting of typing, type matter, slugs and other material of any kind, whether operated mechanically or automatically and wherever located.

Article III, Section 6: Only members in good standing of ITU or the constitutent local thereof may be employed upon all work necessary to processing the product of photo type setting machines.

Article VII, Section 7: Only members of ITU may be employed to perform duties in the paste makeup operation using reproduction proofs.

Article V, Section 9; Article X: A member may select a substitute in his absence from work and such substitute shall be a member of the union and selected in accordance with the priority standing system of members established and maintained by the ITU local union and posted in its chapel.

Article X: In filling vacancies created by the absence of an employee for more than 30 calendar days only a member of ITU or the constitutent local may be employed and such employee shall be selected in accordance with the riority system established by the local.

Article V. Section 1; Article X: Any foreman filling a pacancy must give priority to the substitute listed on the priority list established by the local as oldest in continuous

uous service, and the foreman shall be governed by provisions of the ITU General Laws.

Article V: In decreasing or increasing the work force the foreman shall be governed by the ITU General Laws and increase or decrease the force in accordance with the priority system established and maintained by the local union.

Article V, Section 8: Discharged members of the ITU shall have the right to appeal in accordance with the ITU laws and the right to challenge the fairness of any rule of the employer which caused his discharge.

## THE MEETINGS IN 1956

The first meeting on the above proposals was held about October 14 (Steele fixed the date as about October 24), at which time only the jurisdiction and general laws clauses were discussed. In substance Steele stated the Union representatives took the position the clauses must be taken as submitted while Mahoney said the Company representatives termed the clauses as "key points" and it would be useless to discuss other proposals until these clauses were settled. The meeting concluded with the Company agreeing to submit a counterproposal.

The next meeting was held on November 1, when the Company presented its counterproposal. In this document the Company, after pointing out that the key clauses should be settled before negotiating on other contract proposals, offered to grant the Union jurisdiction over all composing room work including, "but is not limited to," the classifications set forth in the last agreement. The Company also agreed to the proposal on general laws "to the extent that they are negotiated and become a part of the contract." The counterproposal concluded with an offer to negotiate for new language concerning certain provisions in the prior contract, in the event the parties reached agreement on the

key clauses. The Company representatives, as related by Steele, inquired if there was any chance of reaching an agreement without the Union's language on jurisdiction and general laws and Quinn answered in the negative. Quinn further stated that the Union was tired of working without a written contract and in order to have a written agreement "it must contain language approved by Indianapolis, the ITU headquarters, and that was it." Mahoney testified that although the Union representatives were ready to immediately reject the counterproposal there was some discussion particularly with respect to negotiation of individual general laws. The Union representatives took the position they would negotiate anything into a contract that would give proper protection "even to substitute paragraph for anyone of the general laws." On cross-examination Mahoney stated they would not negotiate the general laws per se and that the general laws prohibit negotiation thereon. The meeting ended with the Union agreeing to consider the counterproposal.

Shortly after this session the Union representatives presented the counterproposal to the members who rejected the same and instructed the representatives to negotiate on the original proposal.

On November 7 or 8, the parties again met. At this time the Union representatives stated the counterproposal had been rejected by the membership and they, the representatives, had been sent back for an approvable contract. Mahoney explained that the term approvable contract meant approval by the ITU. According to Steele the Union insisted the jurisdiction and general laws provisions must be accepted while Mahoney said he did not understand that the ITU insisted upon the jurisdiction clause as written and that the general laws must be included, although he knew of instances where the provision was not required because the laws were incorporated into the contract. When the

Union asked the Company to negotiate on other provisions of the contract, Phillips replied they would not refuse to discuss terms, but the Company would not grant the jurisdiction and general laws clauses as contained in the Union's proposal. Phillips said he could see a possible impasse and that the Union could take any action it desired but if they went on strike, "We will give you the God damnedest strike you ever saw." Apparently, the meeting ended on that note.

At the meeting of November 29, the Company announced that it was considering the introduction of teletypesetter type as a means of reducing costs and was willing to give the union jurisdiction over the insertion of tape into the machine and the handling of the product after it came through the machine. However, the Company would not agree to any curtailment of the amount of tape used of the manner in which it was used. The Company spoke at length on jurisdiction and pointed out there was no need for the Union's proposal since the Company had no intention of introducing any new processes, except perhaps the teletypesetter. Although the Union suggested a clause-by-clause discussion of its proposal the suggestion was not followed by the Company. The Union also accused the Company of using the key clauses as a wedge to prevent discussion of other contract terms, which Steele denied.

The parties then met on December 6, and their positions were substantially the same as stated at the previous meeting. Mahoney expressed the desire to maintain "vertical priority," or seniority, for the composing room employees and hoped the parties could reach agreement, preferably a written contract, which would preserve that system. There was also a general discussion on the teletypesetter operation with the Company asserting it had the right to install and operate any processes in any manner it so desired.

### THE MEETINGS IN 1957

About January 8 or 10, the parties held their first meeting and LaMothe accompanied the Union representatives. Quinn explained that the Local felt an impasse had been reached so they requested Randolph to assist them and he sent LaMothe for that purpose. LaMothe, according to Steele, asked the Company to state its position and they replied it was basically the same as it had been for the past 2 years. The Company likewise inquired if there had been any change in the Union's position and LaMothe said, no. The Company then specifically asked about jurisdiction and general laws and he stated "the Union language must be taken." Mahoney said that LaMothe brought up the subject of the Company's counterproposal of October 31, and Phillips replied it had been rejected by the Union; that the Company was standing on its counterproposal and the Union on its original proposal. While most of the time was devoted to a general discussion of preceding events, the Company offered to submit a "non-introductory clause," that is, a provision specifying new processes which would, or would not, be introduced during the term of the contract. La Mothe, as related by Steele, then asked about the general laws and the Company responded they would be willing to negotiate them individually. LaMothe rejected the offer and stated he would notify the Federal and State mediation services that the parties had reached a stalemate.

About January 17, the Company presented its "non-introductory clause" to the Union, wherein it restated the jurisdiction provision in its counterproposal and added; (1) the Company was willing to give the Union full jurisdiction over all composing room work and (2) it pledged, for the duration of the contract, not to install Fotosefter, Photon, Linofilm, Monophoto, Coxhead Line, Filmotype, Typro or Hadego operation. I all respects the counterproposal remained unchanged.

On January 22, the mediators help separate meetings with the Company and the Union. The mediators, after meeting with the Union, informed the Company that the disputed clauses would have to be settled first and that the Union wanted a signed contract under which they could operate. The Company advised the mediators they were willing to make a liberal wage settlement, but they could not accept the Union's jurisdiction and general laws clauses because they were illegal. The mediators reported the Company's position to the Union who stated they would ask for strike sanction at a membership meeting the next day, but agreed to meet with the Company on January 30. The mediators then informed the Company of this action and they agreed to a meeting on the above date. At the membership meeting it was agreed to ask the ITU for strike sanction.

On January 30, the parties met, after conferring separtely with the mediators. At both the separate and joint meetings there was some discussion as to what would happen in the event of a strike and Hanson told the mediators and the Union that the paper would continue to publish and the matter would be presented to the National Labor Relations Board with the request that contempt proceedings be initiated in the Court of Appeals for the Seventh Circuit. At the joint meeting Hanson acted as spokesman for the Company and LaMothe was present with the Union representatives. Hanson said the Company would not be bludgeoned into a contract in conflict with the Taft-Hartley, law and even if there was some way of working out the jurisdiction clause the Company would not take the general laws in toto. He further stated that the Company was willing to negotiate an agreement but many of the Union's contract clauses were illegal. During a discussion between Hanson and Mahoney on the Company's failure to go into the Union's entire proposal, Mahoney complained that the Company's counterproposal was very sketchy. Hanson stated he would give

the Union a complete and legal counterproposal and the receting ended. Following the meeting LaMothe asked the mediators to request the Company president or published to participate in the negotiations. The mediators reported back-to the Union that they did not believe there was much chance of either of these individuals joining in the negotiations.

February 6, the Company submitted a complete counterproposal to the Union covering hours, wages and conditions of employment. In this proposal the Company offered to preserve the representation of the Union over such skilled work as had been normally performed in the composing room prior to January 1. The proposal also provided that all authority and control in the composing room shall be vested in the foreman as a representative of management, but eliminated the requirement contained in the last agreement that the foreman be a member of the Local. The counterproposal contained no provision for inclusion of or operation under the general laws.

On February 8, the parties met separately, with the mediators and in joint session. At these meetings the Company and the Union maintained their former positions in respect to the jurisdiction and general laws clauses and the Company made a firm offer of its "non-introductory clause." During the joint meeting Hanson declared that an impasse had been reached (Mahoney could not remember anyone denying his statement) and proposed that the Company post a notice covering hours, wages and working conditions, which notice was read to the Union. The Union objected to the notice, pointing out their experience with the 1955 wage increase, and Hanson stated he was not attempting to trap the Union into negotiating but simply desired to discuss the contents of the notice with them. The parties then discussed wages. In its original proposal the Union requested a \$9 per week increase on a 1 year contract. In the course

of the meeting the Union told the mediators that on a 2 year contract they would take \$6 and \$6 each year and the Company informed the mediators it would consider \$4 and \$3 increases. During the discussion of the notice the Union asked if the Company would consider \$4 and \$4 and they said they would and announce the decision in the notice. At the suggestion of the Union, the Company agreed to eliminate the termination date and to include certain other terms relating to extra slide day, funeral leave and jury duty. Mahoney pointed out there was nothing in the notice' pertaining to priority and Hanson explained it was not practicable to include the lengthy priority system but guaranteed the system would be continued. This was satisfactory to the Union. LaMothe stated the notice was "no contract" and Hanson agreed it was not a contract but something under which the Union could operate.

No further meetings were held until November.

On February 9, the notice, as discussed, was posted and provided for a \$4 weekly increase retroactive to January 1, and a similar increase effective January 1, 1958.

By letter dated February 14, the Union informed the Company that at a special meeting of the Local on February 13, the membership voted that the Union would not object to acceptance of the wage increase or other improved working conditions by its members, with the understanding that the acceptance in no way binds the Union for any length of time to any contract of any kind. The letter concluded with the statement that the Union was willing at any time to continue negotiations for a complete contract covering wages and all other terms mutually satisfactory to the Union and the Company. At the meeting of February 13, Quinn advised the members that the Local had not obtained strike sanction from the ITU. Mahoney also told the members that absent the jurisdiction, general laws and foreman

clauses, the terms set forth in the notice appeared to be reasonable and fair.

# EVENTS OCCURRING BETWEEN THE FEBRUARY AND NOVEMBER MEETINGS

Mahoney cited 3 instances which arose under the priority system.

In April, as customary, the chapel chairman, the Union representative in the shop, submitted to foreman Madden the vacation schedule arranged according to priority. Madden complained that all make-up men would be off at the same time and insisted that one of the employees, Swenson, change his plans. The Union protested many make-up men were available and this action constituted a violation of Swenson's rights. However, the matter was straightened out and Swenson was given his vacation in accordance with his priority.

The second incident involved a machinist "out of priority" which was resolved.

The last incident involved O'Toole who worked as a substitute on the night shift from about June to October when he transferred to the day shift. Madden then put him to work as an ad man, which he told Madden he was not competent to perform. While this was Madden's prerogative it had been the rule that a man could not be discharged for incompetency in performing a job for which claimed no competence. In October, O'Toole was discharged for incompetency as an ad man. The Union considered this action a serious violation of the priority system affecting the jobs of all the men. The Union thereupon invoked the grievance procedure of the joint standing committee and meetings were held in October and November. Apparently, the committee was unable to reach a conclusion and the matter seemingly was being prepared for arbitration when the strike occurred.

On September 6, Mahoney, then president of the Local, addressed a letter to Howard M. Booth, publisher, requesting a meeting for the purpose of continuing negotiations and to discuss "serious alterations" in working conditions. On September 25, Mahoney again wrote the Company for a meeting and if it failed to do so, the Union would report the matter to its membership for whatever action it might deem necessary and notify the conciliation services.

Receiving no response to his/letters, Mahoney telephoned Booth and asked if his silence indicated a refusal to bargain and Booth said no, that he would take up the matter with Steele. Shortly thereafter Steele called Mahoney and stated Booth was sending him a letter, which he would like to explain or qualify. He then stated the Company's position was the same and it would be fruitless to negotiate on the basis of the Union's proposal. Mahoney said under the circumstances the parties would never get any place but the Union was still ready to negotiate a complete, approvable contract.

Following this conversation the Company sent a letter to the Union, dated September 30, stating it did not consider this to be a reasonable time for negotiating.

On November 5, the Union wrote the Company it was not satisfied with its reply and requested an early meeting. The parties then made arrangements to meet.

# THE MEETINGS OF NOVEMBER 26 AND 27

At the November 26, meeting Hanson acted as spokeman for the Company and Charles M. Lyon, first vice president of the ITU was spokesman for the Union. Hanson told the Union that the Company was willing to sign a legal contract but it could not accept the Union's previsions on jurisdiction, general laws and foreman. Concerning the foreman's clause, Hanson said the Company had no objection to his being a member of the Union but could not agree to

make union membership mandatory. Lyon replied that . a contract containing these provisions would be legal if the Company agreed to it and mentioned the fact the other newspapers had agreements similar, if not identical to the Union's proposal. Hanson denied that acceptance of these clauses would make them legal. The parties also discussed the jurisdiction clause and its application to employees, artists, engaged in a process known as "paste-up" or "paste make-up." The artists, as asserted by the Company, had performed this work for many years, did not work in the composing room, were neither members of nor represented by the ITU for the purposes of collective bargaining and were not included under the jurisdiction provision of the last agreement. Weinrich stated that the Union did not claim or ask to represent the artists, or any other employees outside the composing room but did request that make-up work be brought into the composing room. In this respect Mahoney informed the Company that the Local had trained men for this process since it had sent a man to Indianapolis to learn paste make-up, that he had trained a number of employees, and the Union wanted the work for its members. Mahoney added the paste make-up was nothing but a substitute method of doing work which had always been performed in the composing room and while the Union made no claim over artists it considered the process as properly defined within the printing craft and within the meaning of its jurisdiction clause.1 Hanson said it was not a question of Union jurisdiction but a question of representation. The parties also discussed the Union's proposal and Hanson said it did not coincide even closely with the Company's wishes and it could not operate economically under such a contract. When Hanson declared the parties could reach

<sup>&</sup>lt;sup>1</sup> This controversy was the basis of the proceedings under Section 10 (k) of the Act.

an agreement if the Union withdrew, or they could resolve, the three key clauses, Lyon explained why the Union wanted a workable contract and pointed out these clauses had been accepted by other newspapers. Lyon informed the Company the Union had taken a strike vote and Hanson responded that if the Union struck he would present the matter to the Board and seek to have the Union adjudged in contempt of the decree entered in the Courts of Appeals for the Seventh Circuit. Lyon said if a strike occurred it would be by individual action of local members. Hanson requested the Union to give further consideration to the Company's counterproposal, which the Union agreed to do, and the parties arranged to meet the following day.

On November 27, the parties went over the proposal and counterproposal and were in substantial disagreement on most provisions. Hanson again questioned the legality of the three key clauses and the Union replied it did not intend to withdraw or change the language of those clauses. When Hanson offered to arbitrate the provisions Lyons rejected the offer, stating the Union would not have submitted the clause if it thought the provisions were illegal. The parties concede an impasse was reached. The Union then caucused and when the meeting resumed Lyon announced the matter had been placed in his hands and because of differences of opinion regarding the legality of certain questions, because the Union was dissatisfied with wages paid and hours worked, "We say good day and good bye."

On November 29, all the employees in the composing room, 195 persons, went on strike.

# EVENTS SUBSEQUENT TO THE COMMENCEMENT OF THE STRIKE

On January 16, 1958, Mahoney wrote the Company that the foreman clause was not and is not an issue in the "lockout" and that the Union has been and is willing to enter int an agreement without that provision if other issues are sat factorily adjusted.

By letters dated January 24, Randolph and Mahoney informed the Company they were withdrawing the demand for a clause providing the employment of a Union foreman.

On February 8, Mahoney and DeLorme, a Local official, met with Steele and Bowditch. Mahoney, inquired if the matter could be resolved locally and Steele replied it seemed impractical because they had had many negotiating meetings and the Union rejected its counterproposal. He further inquired if the Company was committed to go before the Board and Steele stated that was the orderly procedure to follow and, in addition, the Company had taken steps to fill vacancies in the composing room. Steele also questioned Mahoney's authority in view of Lyen's statement at the last meeting and Mahoney said he had authority to discuss the matter from the ITU and that the ITU would have to approve any means of settling the dispute.

No further meetings were held between the parties.

The Haverhill Case

For many years, and all times material herein, all employees in the composing room have been and are members of Local 38. At the commencement of the hearing in the District Court the General Counsel stated, and his statement is accepted by counsel for the Union, that the last agreement between the Company and the Union expired in 1947.

In December 1956, Local 38, submitted a proposed contract to the Company containing, inter alia, clauses on jurisdiction, general laws and foreman identical to those set forth above. Thereafter the Company and the Union met on eight occasions, namely, December 1956, and January, May, October 28, and November 8, 20, 21, and 23, 1957. During the period December 1956 through November 8,

1957, negotiations were conducted by local personnel with John Russ, president, and William H. Heath, mechanical superintendent, representing the Company and Anthony Rigazio, president of Local 38, and a committee representing the Local. At the meeting of November 8, Rigazio announced that future negotiations would be conducted by ITU officials and he assumed the Company would wish to call in representatives of the New England Daily Newspaper Association to meet with its representatives. At subsequent meetings Lyon and LaMothe represented the Union while Phillips and Parry represented the Company.

In the first phase of the negotiations, December 1956, to November 8, 1957, the Company objected to the Union's jurisdiction clause, which covered new processes not in use. and this provision was the principal subject of discussion throughout the meetings. The Company also objected to the general laws clause for the reason that acceptance of that provision would be tantamount to agreeing to the Union's jurisdiction clause. While the Company objected in principle to the foreman clause, Heath informed the Union he would not make it a decisive issue because he was satisfied with the present foreman and had no intention of making any change. The Company opposed the jurisdiction clause on three grounds, which Heath explained to the Union, as follows: (1) the assignment of personnel to machines and processes was the responsibility primarily of management, not the Union, (2) an agreement now to employ ITU members in the future to operate processes and machines not presently in use would expose the Company to conflict with other unions claiming jurisdiction, over such processes, and (3) since these processes were revolutionary in nature it would be foolhardy for the Company to agree in advance which union would supply operators for the processes. The Union, according to Heath, took the position that the new processes set forth in its

jurisdiction clause were substitutes for traditional composing room processes and Heath admitted the correctness of this statement insofar as it applied to some processes with which he was familiar. However, he expressed no opinion as to some new methods for lack of knowledge of the processes. The Union further claimed that the new processes could be better performed by printers and Heath responded he did not know which craft, printers, engravers, stereotypers or lithographers, was best qualified to perform these new methods. In the past, he stated when substitutes processes were introduced the Company had shown its willingness to use local printers to do the work, but the Company was unwilling to grant jurisdiction in the future. Heath said there was never any mention of nonunion men performing any of the new processes.

In general the parties did not discuss the economic provisions of the Union's proposal for the reason, as explained by Russ, discussion on these subjects hinged on other confract provisions, jurisdiction, general laws and foreman, and they were not discussed because of the time element. Russ admitted that the Union mentioned wages at the May and October meetings and while the Company stated it was willing to discuss this topic there was no discussion for the reason stated aboye. The Union representatives also mentioned wages as they were leaving the November 8 meeting. The Union's vacation proposal was discussed during the negotiations. Heath stated that under Company policy employees with 10 or more years service were granted 3-weeks vacation but this policy did not apply to composing room employees because only these employees had the "slide day." Russ explained that under the slide day practice if an employee's regular day off falls on a holiday he is given an additional day off with pay, or if he works he is paid premium rates. The Union in its proposal asked an additional weeks' vacation in addition to the slide day. The

Company told the Union it would not agree to 3-weeks vacation and the slide day but would accept the vacation demand without the slide day. The parties did not reach agreement on this provision.

In January and July 1957, the Company gave wage increases to all its employees including those in the composing room, without any notice to the Union. Following each increase the Union wrote the Company it did not object to its members accepting the voluntary increase and requested continuing negotiations for a complete contract. The parties maintained their respective positions on all issues throughout the meetings, except that at the November 8, the Union changed its proposal in respect to the term of the agreement and wages. Heath said the Company offered to submit a written counterproposal to the Union but his offer was turned down.

### THE NOVEMBER 1957 MEETINGS

On November 19, the Union held a meeting of its membership at which the employees voted 24 to 0 in favor of striking.

Early the next morning the composing room employees engaged in a work stoppage for almost 2 hours because no negotiation meeting had been scheduled. Heath informed Parry of the stoppage, who arranged to meet with Lyon at 2 o'clock that afternoon. Phillips and Parry conferred with Russ and Heath from about 11:30 to 2 o'clock for the purpose of ascertaining the Company's position in regard to the Union proposals. The group discussed jurisdiction, general laws, foreman, vacations, hours and other provisions, some of which they went over quickly. Parry stated he had knowledge of the Company's position in respect to the general laws and foreman clauses through previous discussions with Heath and Russ, Sr.; deceased, and meetings with Lyon and LaMothe, the last meeting being held some

time in 1955. As a consequence Parry knew that since 1948 the Company had refused to agree to incorporate the general laws in any contract because of the closed shop provisions contained therein. At their meeting Heath expressed the opinion that the general laws were in violation of Taft-Hartley. Parry did not know the Company's position on the jurisdiction clause for that clause was first presented by the Union about December 1955. The group discussed the jurisdiction clause which "was one of the problems" and the general law clause.

That afternoon Phillips and Parry met with Lyon and LaMothe. Lyon asked Phillips if he had read the Union's proposed contract and Phillips replied that he had. Phillips, as related by Parry, stated there were a number of illegal provisions in the proposed contract and he would like an opportunity to give the Union a counterproposal. Lyon told him, "What you might consider legal and what I might consider legal would be two different things." Phillips remarked, "for once . . . we are in agreement." Lyon ended the meeting by saying he was "going to pull the boys out." Phillips testified he had known Lyon for about 30 years and that they had engaged in numerous bargaining negotiations in the newspaper industry during which they had disagreed regarding the legality of the jurisdiction, general laws and foreman clauses. In view of their past experience Phillips understood that Lyon was standing on the contract as submitted, including the three provisions, and that Lyon understood the Company's offer would not contain these provisions. When Phillips remarked they were in agreement as to their respective positions, Lyon declared there was no use in wasting time, he was going to pull the men. The meetings, which lasted less than 10 minutes, then ended. Parry stated that following the meeting Lyon and LaMothe went to the composing room where Lyon spoke to the employees and about a minute later the employees left the plant.

The parties stipulated the composing room employees went on strike on November 20.

On November 21, the same parties, plus the Union scale. committee, met at the request of Federal and State conciljators, who also attended the meeting. At this session the parties discussed the Union's proposed contract sectionby-section but were unable to reach any accord on the economic or substantive demands therein. Most of the discussions at this meeting were directed to the jurisdiction and general laws provisions. Parry agreed to recognize the Union as the bargaining representative of the composing room employees exclusive of employees to operate new processes with which the Company was unfamiliar and had no plans for introducing into its plant. There followed a lengthy discussion on new processes and the possibility of conflicting jurisdictional claims by other unions, during which the Union stated they were interested in not losing any work for its members. Parry assured them the Company did not plan to lay off any employee based on jurisdiction that might come up in the future. He also pointed out that jurisdiction clause would preclude the Company's present use of tape perforated in Boston by United Press which it sent over leased wires and which was recut in the Company's news room. He further pointed out the Company was using "typro," which is featured tape or tape reproducing features which was actually cut in St. Petersburg and the jurisdiction language would prohibit the use of this tape. LaMothe said something could be worked out on the United Press service by way of limitation on the amount of tape or the use of all such tape not construed as features for which no extra charges were paid. The discussion on jurisdiction ended with the Company agreeing to propose definite language on this clause. The Company objected to the

general laws clause because it was another way of obtaining jurisdiction over new processes and some of the provisions; which provided for a closed shop was illegal. Parry offered to negotiate each law individually as part of the contract and Lyon answered that the general laws were not negotiable and he would not take them up individually. Lyon, accord-se ing to Parry, inferentially agreed certain provisions of the general laws might be in conflict with other laws and mentioned there was "savings clause" in the proposed contract.2 Party stated the "savings clause" would be of little value since the Union's contract prohibited arbitration of the general laws and Lyon admitted they were not arbitrable. Lyon asserted that any general laws in violation of Taft-Hartley were suspended but no mention was made of any specific provisions of the general laws to be included in or excluded from the contract. There was also some inclusive discussion on the struck work clause and the right of employees to obtain substitutes. Lyon stated the Union had to have an "approved contract," that is one approved by the ITU.

On November 23, the parties again met, with the conciliators present. In accordance with his agreement to submit a counterproposal on jurisdiction, Parry advised that:

The Publisher recognizes the Union as exclusive bargaining agent for all employees of the Publisher engaged in composing room work and any dispute that arises as to what constitues composing room work shall be subject to arbitration as provided in this contract.

After some discussion as to the manner in which the impartial arbitrator should be selected, Eyon said the Union had to have the jurisdiction in the language set forth in its.

Article I, Section 8 of the proposed contract provided, nothing contained herein shall be construed to interfere in any way with the creation of operation of any rules not in conflict with law or this contract by any chapel of the Union for the conduct of its own affairs.

proposed contract. There was no discussion of the general · laws clause, other than the Company objected (and apparently did so at the November 21, meeting) to the provisions in the proposed contract and the general laws which provided the foreman "shall" be a member of the Union. Parry explained that if the Union expelled the foreman, who had no protection under the Act, the Company would be-forced to discharge him and replace him with a Union member. The Union responded that the foreman had always been a Union member and if he was forced to resign he might lose many benefits as a consequence of his membership. Parry suggested that the clause be changed so that the foreman "may" be a member, which was rejected by the Union. The vacation demand was discussed with each party maintaining his original position, the Union asking for 3 weeks plus slide day and the Company offering 3 weeks without slide day. At the previous meeting wages were mentioned, and Lyons characterized economic issues as secondary, so at the instant session Lyon asked Parry if he had any counterproposal on wages. At the time of the strike the rate was \$96.30 a week and the Union's proposed contract called for \$109.55 per week. Parry pointed out the Company had granted increases in January and July totaling \$4.50 a week and offered \$3.50 per week, bring the scale up to \$100, which was not acceptable to Lyon. At the suggestion of the conciliators the parties summarized the basic issues as follows:

First was the limitation of, restriction of the use of teletype tape. The second was jurisdiction over new processes. And third was refusal of the employer to agree that the foreman shall be a member of the union, and the fourth was refusal of the employer to accept the general laws of the International Typographical Union. Parry offered full arbitration on all these issues but Lyon refused his offer. The meeting then ended.

Randolph testified that the general laws prohibit any arbitration thereof by local unions, but the prohibition "has no reference to the arbitration of the facts of the dispute. Its only whether or not they would arbitrate whether or not to exclude the general law from a contract, or to arbitrate whether it could be effective or not." Randolph further testified that, in accordance with the ITU by-laws, he designated Lyon as the ITU representative in the dispute and that the ITU sanctioned the strike.

By letters dated January 17 and 24, 1958, the Local and the ITU, respectively, informed the Company that the demand for the foreman clause was being withdrawn.

In brief, Randolph's testimony in the New York Mailers case (November 14, 15, 1957), discloses that for many years it was the custom of the ITU to include a provision in agreements that matters not covered by the contract shall be covered by the general laws. Subsequent to the enactment of Taft-Hartley the clause was changed to include the general laws "not in conflict with this contract or with Federal or State law shall govern the relation between the parties on conditions not specifically enumerated herein." However, Randolph said it would not be possible to spell out what general laws might be validly applied under particular circumstances, but the employer or the local union could seek the advice of the ITU on these questions. He

<sup>&</sup>lt;sup>3</sup> Article II, Section 3, states "It is imperatively ordered the executive officers of the International Typographical Union shall not submit any of its Laws to arbitration, nor shall any subordinate Unions arbitrate whether or not any General Law of the International Typographical Union is effective."

Article XIX, Section 1, provides: "In the event of disagreement between a subordinate union and the employer which in the opinion of the local union may result in a strike, such union shall notify the President, who shall in person or by proxy investigate the cause of the disagreement and endeavor to adjust the difficulty. If his efforts should prove futile, he shall notify the becutive Council of all the circumstances, and if a majority of said Council shall decide that a strike is necessary, such union may be authorized to order a strike."

further testified "our general laws are the basis of union shop operations and have been so throughout the history of the ITU." In this connection he said that local unions must clear any proposed contract with the ITU before submission to the employer and, if agreement is reached, it must again be submitted for approval before final execution. Randolph concluded by stating the union shop allowed under the Act would permit the employer to determine not only the character, health and competency of an employee but he would have a method of determining who would be members of the Union, which "is entirely repugnant to the history and tradition" of the ITU.

### CONCLUSIONS

### THE REFUSAL TO BARGAIN

Although it is conceded that the parties reached an impasse on the jurisdiction, general laws and foreman clauses it strikes me that the Respondents' demand for the jurisdictional clause covering many classifications for future work or processes was the primary clause of the disputes. Thus, in the Worcester case, the Company had collective bargaining agreements with the Union for many years and their last agreement included clauses incorporating the general laws therein and the employment of union foreman. In the Haverhill case Heath testified concerning the negotiations that the jurisdiction demand "was the basic issue from beginning to end." Heath explained the Company objected to the general laws clause for the reason that acceptance of that provision meant automatic acceptance of the jurisdiction clause, although he added that the general laws clause embraced more than the jurisdiction provision. To eliminate any doubt on this point the Court inquired of Heath;

Your concern to the union, if I understand it, was that

Section 8 [the contract demand for the general laws] and Section 5 [the jurisdiction provision] were two ways of expressing the same thing that you didn't want to take.

Heath replied;

Jurisdiction, that is right.

Again, when asked by the Court if he expressed any objection to Section 8 that was independent of Section 5;" he answered;

I had no occasion to, your Honor, because discussions between management and the union almost exclusively hinged on the issue of jurisdiction.

Therefore, the first question to be resolved is whether the units sought by the Respondent Unions under their jurisdiction clauses are appropriate for the purposes of collective bargaining under the Act. Here, of course, there has been no Board determination of the appropriate unit but on the basis the record herein and the bargaining history I have no difficulty in finding that a unit comprising all composing room employees, subject to the statutory exclusion of foremen, in the work classifications covered in the last agreement between the Union and Worcester (supra p. 6) is appropriate for the purposes of collective bargaining within the meaning of Section 9 (c) of the Act. (ANPA, 104 NLRB 814-815). Of course, Haverhill and the Union have not had any collective bargaining agreements since about 1947. However, the evidence plainly shows that negotiations were conducted on the basis of a unit consisting of composing room employees and the Board has held such a unit, excepting foremen, to be appropriate in the newspaper industry. (ANPA, supra) I therefore find that all composing room employees, excluding foremen, of Haverhill, is appropriate for the purposes of collective bargaining within the meaning of Section 9 (c) of the Act. There is no question that the respective Respondent Unions represented a majority of the employees in these units. Accordingly, I find that Local 165 and the ITU and Local 38 and the ITU were, and are, the duly designated bargaining representatives within the meaning of Section 9 (a) of the Act of the employees in the units herein found to be approprite. (ANPA, 104 NLRB 816.)

In general the Board has refused to include in a unit nonexistent or future job operations. Thus, in Hamilton Watch Company (118 NLRB 591, 592, footnote 4) the Board declined to include factory clericals in a production and maintenance unit for the reason that the employer had no employees in that classification and did not contemplate hiring any such employees in the immediate future. (See also, Combustion Engineering Company, 117 NLRB 1589, 1593, Koppers Company, Inc., 117 NLRB 422, 427, footnote 9.) Here the evidence is plain that the Companies had no intention of introducing the new methods or processes over which the Unions were asserting jurisdiction. Moreover in the Worcester case, the Company submitted a counterproposal in which it agreed not to introduce certain methods during the term of the agreement, which proposal was rejected by the Union. It is undisputed that the Respondent Unions insisted throughout the negotiations that the jurisdiction clause must be accepted in the language submitted. Counsel for the Respondents contend that the Unions only sought to bargain on behalf of those employees in the composing room unit that they historically represented. Further, counsel contend, in the absence of a Board certification, the parties have the right to determine the scope of the unit and that a union may ask and strike for a contract provision relative to work not presently in existence. The plain answer to the latter contention is that the Companies refused to accept the Union's designation of the bargaining unit, which I have found to be inappropriate, but nevertheless the Unions insisted upon conducting negotiations on

the basis of that unit. Nor do I agree with counsel that absent a prior Board determination of the unit that a party may insist upon bargaining in a unit of his own choice, irrespective of its appropriateness. In Eastern Massachusetts Street Railway Company (110 NLRB 1963) the Board on the record before it, and without prior unit determination, found that a company-wide unit of all operating and maintenance employees (regardless of the division where they worked) to be an appropriate unit and that the Association was the representative of all the employees in the unit. The Board further found (page, 1966-1967) that the Company in dealing with the Lowell Local as representative of a mere fraction of the unit, when the Association had the right and was insisting upon representing all the employees in the unit, thereby refused to bargain with the majority representative in an appropriate unit in violation of Section 8 (a) (5) of the Act. In granting enforcement of the Board's order the Court of Appeals for the First Circuit (235 F. 2d 700) held the bargaining unit determination was within the powers granted under Section 9 (b) of the Act and the appropriateness thereof fully supported by the evidence. The Court summarily rejected the Company's contention that assuming the unit determination was proper, still there was no violation of Section 8 (a) (5) because the Company believed in good faith that the smaller unit was appropriate.

In Texolite, Inc., (International Brotherhood of Electrical Workers, 119 NLRB No. 232, 41 LRRM 1392) the Board stated:

A Union which is the statutory representative of employees in an appropriate unit has the obligation, as does the employer, to bargain in good faith with respect to terms and conditions of employment for employees in that unit. A refusal to enter into a collective bargaining agreement, unless the other party to the negotiations agrees

to a provision or takes some action which is unlawful or inconsistent with basic policy of the Act is a refusal to bargain in violation of the Act. Hence a union which insists upon bargaining only for an inappropriate unit does not fulfill to obligations to bargain as defined in the Act. (Citing American Radio Association, 82 NLRB 1344, Douds v. International Longshoremen's Association, 241 F. 2d 278 (C. A. 2)).

In view of the foregoing findings I cannot accept the Respondent's contention that they were doing nothing more than bargaining on behalf of the composing room employees for work traditionally performed by these employees. Moreover, the Board has resolved any question that might have arisen in that respect in its Decision and Determination of Dispute in proceedings under Section 10 (k) of the Act involving Worcester and the instant Respondents. NLRB No. 101, 42 LRRM 1444). Following the strike, Worcester, filed a charge on December 2, 1957, alleging that the Respondents had been and were engaging in activities proscribed by Section 8 (b) (4) (D) of the Act. In substance the charge alleged that the Respondents had induced and encouraged the employees of Worcester to engage in a strike or a concerted refusal in the course of their employment to handle or work on goods with an object of forcing or requiring Worcester to assign particular work to employees who were members of Respondent Unions rather than to employees in another trade, craft, or class. Briefly, the Board found that at least a portion of the Respondents' purpose in striking was to resolve the "disagreement" over the work jurisdiction clause by forcing or requiring Worcester to accept that clause. Continuing, the Board stated that if the Respondents' jurisdiction clause required assignment of work to its members rather than to employees in another labor organization, or in another trade, craft, or class the strike was for an unlawful object within the meaning of Section (8) (b) (4) (D). The Board found that an object of the strike was to force or require Worcester to assign to Respondents' members working in the composing room the paste-makeup work which it had assigned to artists who were not members of the Respondents and who had been performing the paste-makeup operations for many years. The Board thereupon entered its determination of the dispute on that basis.

I have no difficulty in concluding that by insisting upon acceptance of the Union foreman clause brought the negotiations the Respondent Unions refused to bargain in good faith as required by the Act. In the ANPA case, both the Court and the Board held that the Unions by engaging in coercive conduct designed to compel employers to continue to hire only union foremen violated Section 8 (b) (1) (B) of the Act.5 In fact the Court stated the Union' "insistence on union foremen was a very important part of their scheme for the maintenance of the closed shop conditions." · +193 F. 2d 782, 796, 805; 84 NLRB 951, 957-959). Here the Respondents urge that the evidence negates the presumption that union foremen will discriminate in favor of union men, as held in Enterprise Industrial Piping Company (117 NLRB 995)6, for in the Worcester case the Union had difficulties with the foreman. In this connection Mahoney, as appears above, cited 3 instances which arose under the priority system, 2 of which were resolved quickly and the remaining one, the O'Toole discharge, was being processed at the time of the strike.

The section provides; it shall be an unfair labor practice for a labor organization or its agents—(1) to restrain or coerce . . . (B) an employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances.

In this case the Board, in accordance with well established policy, held that where employers entrust their hiring to foremen who are members of the Union and bound by its laws, they in effect agree with the union, through the foremen who are agents of employers and the Union, to operate under a closed-shop arrangement, which is prohibited by the Act.

Mahoney testified that in his opinion the O'Toole discharge was one of the reasons why the members voted to strike but admitted *Worcester* was not informed this matter was one of the causes of the strike. While these matters were important to the Local I do not see how they materially affect the issues herein.

As in the case of the jurisdiction and foreman provisions the Respondent Unions demanded the general laws be accepted in toto and summarily rejected all offers to negotiate the laws individually or to arbitrate any of the controversial provisions therein.

The General Counsel contends that some 16 provisions of the general laws create illegal hiring conditions and by insisting upon acceptance of these laws as a condition precedent to a contract, and by striking to enforce these demands, the Respondent Unions violated, inter alia, Section 8 (b) (3) of the Act. On the other hand counsel for the Respondents assert the general laws challenged are not illegal on their face, that under the "savings clause" only those laws which are not in conflict with the contract or civil law are included, and the laws thus excluded are protected as internal rules of membership by the proviso to Section 8 (b) (1) (A) of the Act.

At the outset I wish to point out that the demand for observance of the general laws set forth in the complaints cannot be treated as an academic subject, without any particular significance or meaning but must be considered in the light of their adoption, purpose and enforcement and evidence herein. Generally speaking Randolph's testimony discloses that undoubtedly the ITU has considered the general laws as the core of its organization for, as he stated, "our general laws are the basis of union shop operations and have been throughout the history of the ITU." It is equally clear from Randolph's testimony that his version of the union shop is not the union shop permitted under

the Act. Nor is there any question that the experienced bargaining representatives in these cases entertained any doubt concerning the nature of the Unions' demands for inclusion of the general laws and the applicability, scope and effectiveness of these laws. Accordingly, I consider the demand for acceptance of the general laws challenged in this background and the record herein.

Although the contracts defines "employees" as journeymen and apprentices and provide that only journeymen and apprentices shall be employed there is no mention of membership or nonmembership of journeymen in the ITU. The general laws (Article V, Section 11) state that all foremen and journeymen must be active members in good standing in the Union and further declare (Article VII, Section 1 and 5 and Article VIII) that only members shall be allowed to install, operate or service the various machines and devises used in the composing room. While the contracts do not provide that union membership is a condition of achieving journeymen status, and Randolph testified to this effect, they contain no provisions as to membership or nonmembership requirements once journeymen status has been established. As the general laws require all journeymen to be active Union members, the term/"journeymen" in the contracts must be held to refer only to journey. men who are Union members. Accordingly, the demand by the Respondent Unions, that the Companies agree to employ only journeymen in their composing rooms constitutes nothing less than a demand for a closed-shop provision. Further, the Board's decision in the Worcester case, supra, demonstrates that the Respondent Unions were not only seeking composing room work for their members but also paste-makeup work which had been assigned to other employees, nonmembers of the Union, by the Company. also conclude that the general laws requiring the foreman to be an active member of the Union is part of the Unions'

strategy to maintain closed-shop conditions in the composing room. I therefore find that the general laws insofar as they supplement the jurisdiction and foreman clauses, specifically, Article III, Section 12; Article V. Section 11; Article VII, Section 1, 5 and 6, and Article VIII are illegal.

The remaining general laws alleged to be illegal cover apprentices and the priority system.

Since the proposed contracts contain many clauses relating to apprentices, which would govern the relationship of the parties on those subjects, I believe it appropriate to consider both the contract proposals and the general laws claimed to be illegal in this respect. In the Worcester case, Steele said the Company did not question the legality of the apprenticeship contract provisions but did oppose the demands on the grounds: (1) the Company wanted the right to pass on the competency of apprentice applicants rather than jointly with the Local and (2) the Company should not be required to advise apprentices to subscribe to and complete the ITU course in printing. In the Haverhill case, Heath could not recall any discussion on the apprenticeship provision and stated it has been traditional for the Union to accept a large measure of responsibility for the training of apprentices. When asked if he had any objection to the apprenticeship program at the plant, seemingly conducted under the general laws, Heath replied, "No, none at all. We had an excellent program."

Unlike the journeymen clause, I see nothing unreasonable, much less illegal, in the contract proposals and general laws covering apprentices. Certainly, there is nothing in these demands requiring apprentices to be Union members when hired or to acquire membership during the course of their employment. These provisions supercede any general laws to the contrary. In addition the testimonies of Steele and Heath refute the idea that the Companies had any substantial objections to the Unions' demands or the

apprenticeship program itself. The General Counsel specifies 5 general laws as creating unlawful employment conditions concerning apprentices only 2 of which, in my opinion require any comment. Thus, the requirement that "an apprentice must first be approved by the ITU local" (Article I, Section 4) is plainly inapplicable in view of the contract proposals and the record. The other provision attacked is that "Beginning with the second year, apprentices must be in possession of an apprentice card issued by the union." (Article A Section 11) this law-might appear to be illegal, except for the fact that the law is inaccurately stated in the complaint. As correctly quoted this section (G. C. Exh. No. 15, p. 82) states; "Starting with the second year apprentices are entitled to and must be in possession of an apprentice working card." (Underscoring supplied.) Even assuming there might be some ramifications or far-fetched arguments respecting the interpretation of this law, I am satisfied the evidence does not warrant the conclusion that the contract proposals or the general laws covering the apprenticeship program are illegal.

The proposed contracts have provisions touching upon priority, for instance the employment of substitutes by the foreman and reductions-inforce must be made on that basis, so the general laws (Article X) detailing the priority system are incorporated into the contracts. The general laws (Article X, Section 2) state that:

Subordinate unions shall establish a system for registering and recording priority of members in all chapels, which shall be conspicuously posted or kept in a place with the chapel accessible to members at all times. The priority standing of a member shall stand as recorded. Lam convinced that the contract clauses and the general laws delegate exclusive control to the Respondent Unions in the establishment and maintenance of the priority system. The Board has held that such a delegation of power over a

seniority system is unlawful. (International Brotherhood of Teamsters, etc., Local No. 41 (Pacific Intermountain Express Company), 107 NLRB 837, 841; Chief Freight Lines Company, 111 NLRB 22, 32; Kenosha Auto Transport Corporation, 113 NLRB 643.) If the cases did not go beyond this point and involved only the bare legal question of the legality or illegality of the priority proposals as supplemented by the general laws I would have no difficulty in resolving the issue. However, the evidence, as I view it, reveals that the Companies not only raised no objections to the priority system but, apparently, acquiesced in the continuance of the plan at their plants. This is precisely the position of Worcester for Steel, on cross-examination, testified as follows:

Q. During the negotiations, Mr. Steele, did the Company say that vertical priority would prevail?

A. Mr. Hanson stated that priority practices would continue.

Q. And did the Company make any statement about what priority they were putting into effect, if any?

A. Mr. Hanson said that the Company would continue to observe priority practices as they had been.

As appears above, Heath testified Haverhill opposed the general laws only insofar as they applied to the jurisdiction clause, and I fail to see any connection between the jurisdiction clause and the priority clause which would warrant the assumption that the Company thereby objected to the general laws on this ground. Under the particular circumstances I do not find the general laws bearing upon the priority system to be illegal as alleged in the complaints.

I cannot adopt the Respondents' contentions that the "savings clause" includes only the general laws "not in conflict with state or federal law." As related by Randolph there never has been any attempt to state which, if any,

of the general laws might be considered legal or illegal and plainly there is no evidence in the record remotely suggesting that the Respondents were not seeking to incorporate all the general laws, including those found unlawful herein, in the proposed contracts. Suffice it to say that a "savings clause" of this general character is ineffective to eliminate the illegal provisions of the general laws. (N. L. R. B. v. Gaynor News Co., 197 F. 2d 719, 723-724 (C. A. 2) affirmed 347 U. S. 17; N. L. R. B. v. Red Star Express Lines, 196 F. 2d 78, 81 (C. A. 2); Gottfried Baking Co., Inc., et al., v. N. L. R. B., 210 F. 2d 772, 777, 780 (C. A. 2).)

I have considered the arguments advanced by counsel for the Respondents that the evidence fails to establish a violation of Section 8 (b) (3) of the Act. In essence counsel contend that the Respondents were earnestly attempting to negotiate lawful agreements with the Companies and that either party in bargaining negotiations may persist in his position, as they did, concerning any particular provision without violating his duty to bargain. Counsel rely upon Section 8 (d) and the decision of the Supreme Court in N. L. R. B. v. American National Insurance Company, 343 U. S. 395. In the American National Insurance case the Supreme Court held that the statute does not encourage a party to engage in fruitless marathon discussions at the expense of a frank statement of his position and that the Board may not, directly or indirectly, compel concessions or otherwise sit in judgment upon the substantive terms of collective bargaining agreements. The Court also rejected the Board's theory that, apart from the good faith test prescribed in Section 10 (d), the Company's bargaining for a management functions clause was, per se, violative of the Act. Of course, there was no contention that the management functions clause was illegal and on this point the Court expressly stated: (405, fn. 15)

Thus we put aside such cases as NLRB v. National Maritime Union, 175 F. 2d 686 (C.A. 2d Cir. 1949) (bargaining for discriminatory hiring hall clause), where a party bargained for a clause violative of an express provision of the Act.

The foregoing language makes it clear that the good faith test declared in Section 8 (d) applies only in situations where a party proposes and bargains for contract terms lawful under the Act and not, as found here, for demands that would create illegal hiring and employment conditions. I agree with the Respondents' assertions that they were desirous of securing contracts with the Companies, but the evidence plainly shows they insisted upon acceptance of their jurisdiction, foreman and general laws clauses, as written, as a condition precedent to the execution of any collective bargaining agreements. Having found these provisions to be illegal, I further find that by demanding the Companies agree to these clauses the Respondent Unions thereby engaged in conduct in violation of Section 8 (b) (3) of the Act.

## THE VIOLATION OF SECTION (8) (B) (2)

Section 8 (b) (2) provides; "It shall be an unfair labor practice for a labor organization or its agents to cause or attempt to cause an employer to discriminate against an employee in violation of subsection 8 (a) (3)..." The latter section makes it an unfair labor practice for an employer to discriminate against an employee in order to encourage or discourage membership in a labor organization.

The General Counsel contends that by striking, or threatening to strike, to secure contractual provisions which would require union membership as a condition of employment, the Respondents violated Section 8 (b) (2) of the Act. The Respondents contend that the facts do not sus-

tain a violation of either the "causing" or "attempt" provisions of Section 8 (b) (2) for in order to establish a violation thereof it must be shown their activities were directed toward the actual, immediate discrimination against employees as contemplated by Section 8 (a) (3). Further, they argue that insistence upon their lawful contract terms which, if accepted, might grant the power, or compel, the Companies to discriminate at some indefinite future time is insufficient to establish a violation of Section 8 (a) (3). In support of the latter argument counsel point out that. the terms demanded herein have been in effect in other agreements in the area as well as in the last contract with Worcester, without any charges of discriminatory application or enforcement of the contracts. I have already found the jurisdiction, foreman and general laws clauses to be illegal, so I cannot accept the basic argument that the Respondents were simply insisting upon lawful contract terms, hence did not engage in any conduct proscribed by the Act. Nor does the fact that other publishers in New England, and Worcester in the past, have, or have had agreements embodying these clauses alter the situation for the Board has held that where an employer agrees to illegal hiring or employment terms he violates Section 8 (a) (3) of the Act. (Amalgamated Meat Cutters etc.) (The Great A & P (Cômpany), 81 NLRB 1052, 1054-1055, New York State Employers Association, Inc., 93 NLRB 127-128; Pacific American Shipowner's Association, 98 NLRB 582, 584-585.) I believe it only necessary to point out that the legal arguments here advanced by the Respondents were also raised in the ANPA case and rejected by the Court of Appeals.

In the ANPA case and N. L. R. B. v. National Maritime Union of America (175 F. 2d 686 (C. A, 2)), the Courts squarely held that a strike, or threat to strike, to obtain contractual provisions which would require union membership as a condition of employment constitutes a violation of Section 8 (b) (2).

On the basis of the record I have no difficulty in finding that the primary object or purpose of the strikes against Worcester and Haverhill was to force the Companies to accede to the Respondents' demands for the illegal jurisdiction, foreman and general laws clauses. By engaging in such conduct and activities the Respondents violated Section 8 (b) (2) of the Act.

## THE VIOLATION OF SECTION 8 (B) (1) (B)

I find that by engaging in the conduct described above in respect to the foreman clause, the Respondents restrained and coerced Worcester and Haverhill in the selection of their representatives for the adjustment of grievances thereby violating Section 8 (b) (1) (B) of the Act.

## THE ALLEGED VIOLATION OF SECTION 8 (B) (1) (A)

In the ANPA case the Board dismissed the Section 8 (b) (1) (A) allegations of the complaint because the proscriptions of that provision are limited to situations involving actual or threatened economic reprisals and violence by unions or their agents in an effort to compel them to join a union or cooperate in a union's strike activities. (86 NLRB 955-957, affirmed 193 F. 2d 782, 800-801.) The facts in these cases are not so distinguishable from those in the ANPA case (and cases cited therein) that they would justify a conclusion contrary to the Board's decision. Accordingly, I find the Respondents did not engage in any conduct in violation of Section 8 (b) (1) (A).

#### THE ITU AS A PARTY TO THE PROCEEDINGS

In substance the ITU claims it is not chargeable with any unfair labor practices arising out of the negotiations because the Locals were negotiating independently and that

it is not, and was not, the bargaining representative of the employees of Worcester and Haverhill, respectively. These arguments were advanced in the ANPA case (104 NLRB 806, 807-808) and the Chicago Typographical Union case (86 NLRB 1041, 1045-1048) and answered adversely to the ITU. Counsel for the ITU do not deny the similarity between those cases and the present cases. Here the evidence plainly shows that each of the Locals demanded an "approvable contract," that is one which would be approved by the ITU. In this respect the record also establishes that the Locals were required to obtain ITU approval of their agreements prior to submission to the Companies and, again, approval before final experion of any tenta-tive agreement. It is, of course, under suted that Lyon and LaMothe actively participated in the negotiations as representatives of the ITU and that the ITU sanctioned and approved the strikes. On this evidence I find that the ITU and its executive council are proper parties to these proceedings and are chargeable with the unfair labor practices alleged and found herein.

# IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent Unions, set forth above, occurring in connection with the operations of Worcester and Haverhill have a close, intimate, and substantial relation to trade, traffic and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Having found that the Respondents have engaged in unfair labor practices I will recommend that they, and each of them, cease and desist therefrom. From the facts in these cases it is reasonable to infer that, unless effectively restrained, the Respondents will refuse to bargain collectively with the Companies as required by Section 8 (b) (3) by persisting upon acceptance of their contract demands for unlawful hiring and employment conditions and will continue to strike, or threaten strike action, to obtain these illegal objectives. I shall therefore recommend that the Respondents cease and desist not only from engaging in the specific conduct found to be unlawful but from engaging in any like or related acts for the same objective.

Upon the basis of the above findings of fact and the entire record. I make the following:

### CONCLUSIONS OF LAW

- 1. Worcester and Haverhill are each engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.
- 2. The ITU, Local 165 and Local 38, are each labor organizations within the meaning of Section 2 (5) of the Act.
- 3. Respondents Woodruff Randolph, Harold H. Clark. Joe Bailey, Don Hurd and Charles M. Lyon, and the scale committee of Local 165, are agents of the ITU and Local 165 within the meaning of Section 8 (b) of the Act.
- 4. All composing room employees, exclusive of foremen, of Worcester, including classifications such as hand compositors, typesetting machine operators, make-up men, bank men, ad men, proofreaders, machinists for typesetting machines, operators, and machinists on all mechanical devices which case of compose type or slugs constitutes and all times constituted, a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (c) of the Act.
- 5. All composing room employees, exclusive of foremen, of Haverhill constitute, and all times constituted, a unit for

purposes of collective bargaining within the meaning of Section 9 (c) of the Act.

- 6. Local 165 and Local 38 and the ITU were at all times material, and now are, the exclusive bargaining representatives of the employees of Worcester and Haverhill, respectively, in the aforesaid unit for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.
- 7. By refusing to bargain collectively with Worcester and Haverhill, Local 165 and Local 38 and the ITU have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (b) (3) of the Act.
- 8. By instigating, directing and engaging in strikes to cause or attempt to cause Worcester and Haverhill to discriminate against their employees in violation of Section 8 (a) (3) of the Act, the Respondents thereby violated Section 8 (b) (2) of the Act.
- 9. By instigating, directing and engaging in strikes to force Worcester and Haverhill to hire only foremen who are members of the ITU, the Respondents restrained and coerced the Companies in the selection of their representatives for the adjustment of grievances, and thereby engaged in unfair labor practices within the meaning of Section 8 (b) (1) (B) of the Act.
- 10. The aforesaid unfair labor practices are unfair labor practices within the meaning of Section 2 (6) and (7) of the Act.
- 11. The Respondents have not engaged in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

### RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, and upon the entire record, I recommend:

I. The Respondents International Typographical Union,

AFL-CIO, and International Typographical Union Local 38, AFL-CIO, and their officers, agents, and representatives shall:

(a) Cause and desist from:

(1) Refusing to bargain collectively with Haverhills Gazette Company for all the employees in the unit found appropriate herein, specifically by insistence upon acceptance of the Respondent Unions' jurisdiction, foreman and general laws clauses, or by any other means, so long as the Respondent Unions are the representatives of the employees in the above described bargaining unit;

(2) Engaging in strike action, or directing, instigating, or encouraging employees to engage in or threaten to engage in strike action, or approving or ratifying strike action taken by the employees, for the purpose of forcing Haverhill Gazette Company to execute an agreement requiring membership in the International Typographical Union as a condition of employment in violation of Section 8 (a) (3) of the Act;

(3) In any other manner causing or attempting to cause Haverhill Gazette Company to discriminate against employees in violation of Section 8 (a) (3) of the Act:

(4) In any manner restraining or coercing Haverhill Gazette Company in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

(b) Take the following affirmative action which I find will effectuate the policies of the Act:

(1) Upon request, bargain collectively as the exclusive bargaining representative of the employees in the unit found to be appropriate;

(2) Post at conspicuous places at the business office of the Respondent International Typographical Union and the Respondent Local 38, and all other places where notices or communications to members of Respondent Local 38 are customarily posted, including the composing room of Haverhill Gazette Company, the Company being willing, a copy of the notice attached marked Appendix A. Copies of said notice, to be furnished by the Regional Director for the First Region, shall, after being signed by a duly authorized officer of the Respondent International Typographical Union and an officer of Respondent Local 38, be posted immediately upon receipt thereof and remain so posted for a period of sixty (60) consecutive days. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by any other material:

(3) Notify the Regional Director for the First Region, in writing, within twenty (20) days after the date of receipt of this Intermediate Report what steps the Respondents have taken to comply therewith.

It is recommended that the complaint be dismissed insofar as it alleges that the Respondents coerced and restrained the employees in violation of Section 8 (b) (1) (A) of the Act.

It is further recommended that unless on or before twenty (20) days from the date of receipt of this Intermediate Report the Respondents notify the said Regional Director in writing that they will comply with the foregoing recommendations, the National Labor Relations Board issue its order requiring the Respondents, or either of them, to take the action aforesaid.

II. The Respondents International Typographical Union, AFL-CIO: its executive council, Woodruff Randolph, Harold H. Clark, Joe Bailey, Don Hurd and Charles M. Lyon, and International Typographical Union Local 163, AFL-

CIO, and its scale committee, and their officers, agents and representatives shall:

- (a) Cease and desist from:
- (1) Refusing to bargain collectively with Worcester Telegram Publishing Company, Inc., for all the employees in the unit found appropriate herein, specifically by insistence upon acceptance of the Respondent Unions' jurisdiction, foreman and general laws clauses, or by any other means, so long as the Respondent Unions are the representatives of the employees in the above-described bargaining unit;
- (2) Engaging in strike action, or directing, instigating, or encouraging employees to engage in or threaten to engage in strike action, or approving or ratifying strike action taken by the employees, for the purpose of forcing Worcester Telegram Publishing Company, Inc., to execute an agreement requiring membership in the International Typographical Union as a condition of employment in violation of Section 8 (a) (3) of the Act;
- (3) In any other manner causing or attempting to cause Worcester Telegram Publishing Company, Inc., to discriminate against employees in violation of Section 8 (a) (3) of the Act;
- (4) In any manner restraining of coercing Worcester Telegram Publishing Company, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.
- (b) Take the following affirmative action which I find will effectuate the policies of the Act:
  - (1) Upon request, bargain collectively as the exclusive bargaining representative of the employees in the unit found to be appropriate.
  - (2) Post at conspicuous places at the business office of the Respondent International Typographical Union

and the Respondent Local 165, and all other places where notices or communications to members of Respondent Local 165 are customarily posted, including the composing room of Worcester Telegram Publishing Company, Inc., the Company being willing, a copy of the notice attached hereto marked Appendix A. Copies of said notice, to be furnished by the Regional Director for the First Region, shall, after being signed by a duly authorized officer of the Respondent International Typographical Union and an officer of Respondent Local 165, and the individual Respondents, be posted immediately upon receipt thereof and remain so posted · for a period of sixty (60) consecutive days. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by any other material:

(3) Notify the Regional Director for the First Region, in writing, within twenty (20) days after the date of receipt of this Intermediate Report what steps the respondents have taken to comply therewith.

It is recommended that the complaint be dismissed insofar as it alleges the Respondents have coerced and restrained the employees in violation of Section 8 (b) (1) (A) of the Act.

It is further recommended that unless on or before twenty (20) days from the date of receipt of this Intermediate Report the Respondents notify the said Regional Director in writing that they will comply with the foregoing recommendations, the National Labor Relations Board issue its order requiring the Respondents, or any of them, to take the action aforesaid.

Dated at Washington, D. C .:

s/ Reeves R. Hilton,

Trial Examiner.

### APPENDIX A NOTICE

To ALL MEMBERS OF INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 38, AFL-CIO, and to Employees of

#### HAVERHILL GAZETTE COMPANY

#### PURSUANT TO

THE RECOMMENDATIONS OF A TRIAL EXAMINER
of the National Labor Relations Board, and in order to
effectuate the policies of the National Labor Relations Act,
as amended, we hereby notify you that:

WE W. L., upon request, bargain collectively in good faith in our capacity as exclusive bargaining representative of all employees of HAVERHILL GAZETTE COMPANY in the bargaining unit described below with respect to rates of pay, wages, hours of employment and other conditions of employment including union-security as permitted in Section 8 (a) (3) of the Act.

The bargaining unit is:

All composing room employees, exclusive of foremen. WE WILL NOT engage in strike action, or direct, instigate or encourage employees to engage in or threaten to engage in strike action, or approve or ratify strike action taken by the employees, for the purpose of forcing HAVERHILL GAZETTE COMPANY to execute an agreement requiring membership in the INTERNATIONAL TYPOGRAPHICAL UNION as a condition of employment in violation of Section 8 (a) (3) of the Act.

WE WILL NOT in any other manner cause or attempt to cause HAVERHILL GAZETTE COMPANY to discriminate against employees in violation of Section 8 (a) (3) of the Act.

WE WILL NOT in any manner restrain or coerce HAVERHILL GAZETTE COMPANY in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

# INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO

(Union)

Dated

(Officer) (T

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

#### APPENDIX A NOTICE

To ALL MEMBERS OF INTERNATIONAL TYPOGRAPHICAL UNION 165, AFL-CIO, AND TO EMPLOYEES OF WORCESTER TELEGRAM PUBLISHING COMPANY, INC.

#### PURSUANT TO

THE RECOMMENDATIONS OF A TRIAL EXAMINER of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL, upon request bargain collectively in good faith in our capacity as exclusive bargaining representative of all employees of WORCESTER TELEGRAM PUBLISHING COMPANY, INC., in the bargaining unit described below with respect to rates of pay, wages, hours of employment and other conditions of employment including union-security as permitted by Section 8 (a) (3) of the Act.

The bargaining unit is:

All composing room employees, exclusive of foremen, including classifications such as hand compositors, type-setting machine operators, make-up men, bank men, ad men, proofreaders, machinists for typesetting machines, operators, and machinists on all mechanical devices which cast or compose type or slugs.

WE WILL NOT engage in strike action, or direct, instigate or encourage employees to engage in or threaten to engage in strike action, or approve or ratify strike action taken by the employees, for the purpose of forcing WORCESTER TELEGRAM PUBLISHING COMPANY, INC., to execute an agreement requiring membership in the INTERNATIONAL TYPOGRAPHICAL UNION as a condition of employment in violation of Section 8 (a) (3) of the Act.

WE WILL NOT in any other manner cause or attempt to cause WORCESTER TELEGRAM PUBLISHING COMPANY, INC., to discriminate against employees in violation of Section 8 (a) (3) of the Act.

WE WILL NOT in any manner restrain or coerce WORCESTER TELEGRAM PUBLISHING COMPANY, INC., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

INTERNATIONAL TYPOGRAPHICAL UNION AFL-CIO

|                                       | nion)                  |
|---------------------------------------|------------------------|
|                                       | . By                   |
| Woodruff Randolph                     | Harold H. Clark        |
| Joe Bailey                            | Don Hurd               |
| Charles M. Lyon<br>INTERNATIONAL TYPO | GRAPHICAL UNION LOCAL  |
| 165, AFL-CIO, AND ITS 8               |                        |
| . (U                                  | Inion)                 |
| Dated                                 | . By (Officer) (Title) |

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

## RESPONDENTS' EXCEPTIONS TO INTERMEDIATE REPORT

Case No. 1-CB-429 Case No. 1-CB-430

Now come respondents in the above-entitled matter and present their exceptions to the Intermediate Report of Trial Examiner Reeves R. Hilton. For the Board's convenience, the exceptions have been arranged by subject matter: first to the findings of fact and failures to find in the individual cases, then to the legal findings, conclusions, etc. Wherever a failure to find is excepted to, reference is made to the point in the record where this fact appears. (The key to record references is as follows: (R.) refers to the hearing before the Trial Examiner in the Worcester case; (W.R.) to the Worcester 10(k) hearing; (H.R.) to the trial of the Haverhill case before Judge Aldrich; (N.Y.R.) to the hearing in the New York Mailers' case.

## I. FACTS

#### A. Worcester Case

- 1. To the failure to find that Local 165 objected to employer's unilateral increase as breaking off negotiations (R. 231-2) and failure to find that union urged continuance of negotiations after employers insisted that acceptance of these payments indicated acceptance of employers' terms. (R. 235-6).
- 2. To the finding (p. 5, 1. 59) that the negotiations "centered principally" on the Local 165 demand concerning jurisdiction, incorporation of the ITU general laws and the foreman's clause; and the failure to find rather, that all of the Local 165 contract proposals were involved in the negotiations, and that Local 165's representatives wanted to discuss the contract point by point (R. 240), but the employers' representatives insisted on discussing only the jurisdiction and laws clauses. (R. 239-40)

3. To the ambiguous finding (p. 6, 1. 20-23) regarding the language of the proposed laws clause and the failure to find that it read as follows: "The General Laws of the International Typographical Union, in effect at the time of execution of this agreement, not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract."

4. To the failure to find that at the October 14, 1956 meeting, Phillips stated on behalf of management that the union proposal would increase costs by some half million dollars, (R. 239) and the further failure to find that the company counterproposal commented on the increased cost of the union proposal. (G.C.Ex. #3, dated October 31,

1956)

5. To the failure to find that the company counterproposal included the introduction of a new class of employees between journeyman and apprentice, changes in the price ority (seniority) system and increasing the grounds for discipline and the unilateral power of the employer over discipline.

6. To the failure to find that neither in the company counterproposal nor at any other time did the company state which general laws it wished to negotiate; and to the failure to find further that the union on November 1 stated it would be glad to put the laws individually into the contract or do anything else which would give the employees the proper protection. (R. 243)

7. To the failure to find that the members of the local; passed a resolution protesting the company's procrastinat-

ing attitude in the negotiations. (R. 243)

8. To the failure to find that Phillips stated that the management wanted an increase in the standard daily production of news matter; to the further failure to find that the union representatives responded by expressing a desire for cleaner copy. (R. 247)

9. To the failure to find that it had previously been the practice of the parties to discuss issues like jurisdiction first in negotiations, but to pass over them if unresolved and to move to other issues. (R. 239, 317-18)

10. To the failure to find that Local President Quinn asked that ITU President Randolph send assistance and to see if an outside observer could find a way to remove the

obstacles to negotiations. (R. 252-53, 385)

11. To the failure to find that at the February 8 meeting Phillips raised the issue of the ratio between journeymen and apprentices, and to the failure further to find that at that meeting the union stated that if it could not supply a competent machinist, it would permit the company to put on a man outside priority. (R. 287-88)

12. To the failure to find that the foreman refused to discuss grievances with the union representative (chapel chairman) as had been the practice, on the ground that

there was no contract. (R. 441-2)

13. To the failure to find that after Hanson appeared in the negotiations the employers objected to the legality of union contract proposals other than the jurisdiction, laws and foreman clauses, to wit: The requirement that employees be journeymen or apprentices (R. 110-11); Permitting permanent situation holders to employ competent substitutes. (R. 123)

14. To the finding (p. 13, 1. 45) that Mahoney stated that any settlement of the dispute would have to be ap-

proved by the ITU.

15. To the failure to find that on February 21, 1958 the state conciliation service invited both parties to a conference, that the union scale committee travelled to Boston for the purpose, and that the company sent a telegram saying it was too busy preparing for an NLRB hearing to appear.

16. To the failure to find that at the time of the strike the company objected to many of the contract proposals of the union to which there was no objection on the ground of

illegality, or to which the company representative did not recall why the company had objected; to the further failure to find that these included the following: Art. I, §§5, 6, 9, 12; Art. III, §7; Art. IV, §§4, 5, 10, 11, and also what were termed by the parties "economic issues" such as wages, hours etc. (R. 50, 112-13, 114, 117, 121-22, 124, 130, 131)

#### B. Haverhill Case.

- 17. To the failure to find explicitly that in the first stage of the negotiations the company rejected the following union demands: wages, Blue Cross severance pay, pension plans, overtime, sick leave, vacations, holidays and slide days. (H.R. Mar. 5, 26-29, 67-8)
- 18. To the ambiguous and misleading finding (p. 14, 1. 41) that Heath said that there was never any mention of nonunion men performing any of the new processes and the failure to find rather that there was no discussion of employee membership or nonmembership in the union throughout the negotiations (H.R. Mar. 5, 79)
- 19. To the finding (p. 15, 1. 29) that Heath expressed the opinion at the luncheon conference of employer representatives on November 20, that the general laws were illegal (a finding contrary to Phillips' testimony, H.R. Mar. 6, 77) and to the failure to find rather, that the only objections stated to the laws at this conference were that they involved jurisdiction and that the laws had been changed to prevent an employer from giving a physical examination to a member of the ITU. (H.R. Mar. 6, 78, 86)
- 20. To the failure to find that no one ordered the employees to strike. (H.R. Mar. 18, 246)
- 21. To the failure to find that Lyon entered the negotiations on ITU President Randolph's direction to mediate the differences if possible. (H.R. Mar. 18, 235)
- 22. To the failure to find that Lyon stated that as long as the foreman was carrying out the orders of management

he could not be disciplined by the union. (H.R. Mar. 6, 20-22, 61-62)

- 23. To the failure to find that the discussion on November 21 of the struck work clause and the right of employees to obtain substitutes (p. 16, 1. 34) was due to Parry's objection (for the first time) to these clauses.
- 24. To the failure to find explicitly that at the time of the strike there was disagreement on the following clauses, all of which were included in many contracts, including New England (H.R. Mar. 6, p. 46):
  - Article 1-4-Journeymen and Apprentices
    - 5 Jurisdiction
      - 6 Foremen
    - 7 Journeymen Defined
      - 8 Observance of Union Laws
      - 9 Struck work
    - 10 Arbitration (last paragraph)
  - Article 2 1 Overtime
    - 4 Call Back
    - 10 Sick Leave
      - 11 Substitutes
  - Article 3-6-Shifting Jobs
  - Article 4 1 Hours
    - 4 Rates of Pay
    - 8 Blue Cross Blue Shield
    - 9 Picket Lines
    - 10 Severance Pay
    - 11 Pension Pay
  - Article 5 1 Taft-Hartley Law
    - 2 Change in Laws
    - 3-ITU Not a Party to Contract
  - C. Facts Common to Both Cases
- 25. To the failure to find that the proposed contract provisions attacked in both complaints do not read "in sub-

stance" as stated therein, and the further failure to find the exact language of each and all of those provisions as stated in G. C. Ex. #2; H.G.C. Ex. #1.

- 26. To the failure to find that the ITU General Laws attacked in both complaints do not read "in substance" as stated therein, and the further failure to find the exact language of each and all of those Laws as stated in G.C. Ex. #15; H.G.C. Ex. #3.
- 27. To the failure to find the history of the following proposed contract clauses, as testified by President Randolph "journeyman" (N.Y.R. 498-99); foreman (N.Y.R. 510-11, 611-12); Art. II and Art. II §11 (N.Y.R. 488-91); "laws" (N.Y.R. pp. 512-7.)
- 28. To the failure to find that the ITU officers answer many inquiries regarding the legality of application of ITU laws in particular situations, and to the failure to find further that ITU officials carefully instruct subordinate locals that they are forbidden to discriminate between members and non-members. (Resp. Ex. 4(a)-(ss)).
- 29. To the failure to find that it was made clear in the proposed contracts, and was never questioned by any of the parties that Locals 38 and 165 were the representatives of the composing room employees in Haverhill and Worcester respectively, and that the ITU made no claim to be their representative.
- 30. To the failure to find that under the ITU General Laws and By-Laws that the ITU has no authority to enter into contractual agreements, and that this power is exclusively with the locals. (G.C. Ex. 15, p. 85, Art III, §1)
- 31. To the failure to find that the International is permitted to enter local situations only when a strike may develop (N.Y.R., p. 471), and that the International President is required to attempt to resolve the dispute personally or through a representative (G.C. Ex. 15, p. 64, Art.

XIX §1); and to the failure to find that this procedure was followed by the Union in both these cases.

32. To the failure to find that a strike can be called only by the vote of the members of the Local. (H.R. Mar, 18, pp. 228-29)

38. To the failure to make explicit the conclusionary finding that the unions in both cases bargained in actual good faith, and believed their contract proposals to be entirely legal.

34. To the failure to make the conclusionary finding that in each of these cases company representatives obstructed negotiations by interjecting new issues, that they used their objections to the legality of the union proposals as a bargaining tactic, that they had no genuine interest in working out an agreement but rather negotiated with a purpose to lay a predicate for unfair labor practice or contempt charges against the locals or ITU.

35. To the failure to find that "approval" of contracts which was discussed in the negotiations meant the statement at the foot of each contract signed by the ITU President (G.C. Ex. #2); that locals signing contracts without this "approval" are not disciplined (R. 412) and that the purpose of the ITU's examining contracts is to comply with ITU Laws, federal law and an order of the Seventh Circuit Court of Appeals.

36. To the failure to find that foremen who are members of the ITU are relieved of any obligations as members which would be inconsistent with their obligations to their employers or under federal law. (N.Y.R. 585-6); and to the failure to find further that the obligations of ITU membership, do not include giving employment reference to members. (N.Y.R. 507)

37. To the failure to find that contracts containing the clauses attacked in the complaint were in effect all over the

country and that attorneys and publishers have agreed that they were lawful, (N.Y.R. 485)

- 38. To the finding (p. 21, 1. 33) that the phrase "union shop" as used by Randolph in his testimony is not the union shop permitted under the Act; and to the failure to find rather that Randolph's testimony makes quite clear that the term means a shop in which the employer contracts with a local of the ITU, and the failure to find further that non-union men are employed in some of these "union shops". (N.Y.R. 560)
  - 39. To the failure to consider Duffy's testimony, (N.Y.R. 1071-1081) which was incorporated into the present record at R. 429.
  - 40. To the failure to find from Duffy's testimony that the contractual provisions here in issue can be and are being applied in a nondiscriminatory manner.

#### II. CONCLUSIONS AND LEGAL FINDINGS

- 41. To the failure to recommend that the complaints be dismissed in both cases because they set forth inaccurately the sections of the proposed contracts and of the General Laws whose illegality is charged.
- 42. To the failure to recommend that paragraph VIII of the Haverhill complaint and paragraph IX of the Worcester complaint be dismissed because they charge respondents with violations of two separable parts of §8(b)(2), thus denying respondents an adequate opportunity to defend, contrary to the Fifth Amendment to the U.S. Constitution, the LMRA and Administrative Procedure Act, and the Board's own rules.
- 43. To the conclusion (p. 25, 1. 26 et seq.) that the respondent international is chargeable with the unfair labor practices arising out of these negotiations.

- 44. To the conclusion (p. 18, 1, 19-20) that the respondents' demand for a jurisdictional clause was the primary cause of the dispute and the failure to conclude that each strike was over failure to agree on a whole contract.
- 45. To the failure to find that the unions sought to bargain only on behalf of the composing room employees.
- 46. To the conclusion (p. 18, 1. 19) that the union's proposal for a juris lictional clause was a "demand"; and to the failure to conclude rather that respondents did not insist on the jurisdictional proposal in the language submitted.
- 47. To the failure to find that the processes included in the jurisdictional clause were substitutes for processes traditionally performed by composing room employees.
- 48. To the conclusion (p. 20, 1. 7-10) that by defining the work tasks coming within the scope of the composing room unit, the unions were seeking to bargain for a unit other than all composing room employees.
- 49. To the conclusion (p. 19, 1. 34 p. 20, 1. 5) that the present cases come within the rule of the *Eastern Mass*. (110 NLRB 963) or the Texlite (119 NLRB #232) cases.
- 50. To the conclusion that the unit for which the union sought to bargain was inappropriate, and the further conclusion that the unions insisted on bargaining for an inappropriate unit. (p. 19, 1. 30)
- 51. To the failure to find that Worcester's offer to include in the agreement a pledge not to introduce the various processes set forth in the jurisdictional clause constituted a recognition of the appropriateness of the unit sought by the unions.
- 52. To the conclusion (p. 19, 1. 31) that in the absence of certification or other prior Board decision defining the appropriateness of a unit, a union may not propose, bargain and strike for a unit of its own choice.

- 53. To the failure to find that in neither case did the union request that the company assign any presently existing work to employees in its unit rather than to any other employees.
- 54. To the conclusions (p. 20, 1. 10-33) relative to the Board's "Decision and Determination of Dispute" in the Worcester 10(k) proceeding. (121 NLRB #101)
- 55. To the failure to conclude that in the absence of a certification or other Board decision defining the appropriateness of a unit, a union may propose, bargain or strike for a contract provision relative to work not presently in existence.
- 56. To the conclusion that the unions "insisted" on acceptance of the union foreman clause in either of these disputes.
- 57. To the failure to conclude that no unfair labor practice can now be found in the *Worcester* case with respect to the foreman clause because of the letters of January 16 and 24 (p. 13, 1. 31-38)
- 58. To the failure to conclude that a company and a union may lawfully enter into an agreement requiring that foremen be members of a union.
- 59. To the conclusion (p. 20, 1. 43 p. 21, 1. 5) that the incidents in the Worcester case involving the foreman "do not affect the issues herein", under the Board's theory in Enterprise Industrial Piping.
- 60. To the conclusion (p. 21, 1. 6-10) that the unions demanded that the General Laws be accepted in toto, and the failure to conclude rather that the unions were willing to take any contract which would give them the protection of the General Laws, to the extent consistent with the law.
  - 61. To the conclusion (p. 21, 1. 50-52) that the term "journeymen" as provided in the proposed contracts refers only to journeymen who are members of the union.
    - 62. To the failure to find that the definition of "journey-

men" as set forth in the contract supersedes any provisions to the contrary in the general laws.

63. To the conclusion (p. 21, 1. 52-55) that the unions' contractual proposal requiring the companies to employ "journeymen" constituted a demand for a closed shop provision.

64. To the failure to find that under the unions' contractual proposals the terms of the contract would supersede any inconsistent provision of the general laws.

65. To the conclusions (p. 21. 1. 59 - p. 22, 1. 1) that the union has a strategy to maintain closed-shop operations in the composing room and that the general laws requiring the foreman to be a member of the union are part of such "strategy."

66. To the conclusion (p. 22, 1. 1-4) that "the General Laws insofar as they supplement the jurisdictional and foreman clause, specifically Article III, Section 12; Article V, Section 11; Article VII, Section 1, 5 and 6, and Article VIII are illegal."

67. To the conclusion (p. 22, 1. 61-63) that the contract clauses and general laws delegate exclusive control to the respondent unions in the establishment and maintenance of the priority system.

68. To the conclusion (p. 24, 1. 11-14) that the unions insisted on the acceptance of their jurisdiction, foreman and general laws clauses, as condition precedent to execution of any agreement, and to the further conclusion (p. 22, 1. 14), that these provisions are illegal.

69. To the finding (p. 24, 1. 61 - p. 25, 1. 1) that the primary object or purpose of the strikes was to force the companies to accede to respondents' demand for illegal jurisdiction, foreman and general laws clauses.

70. To the conclusions that respondents violated \$8(b)(1)(B), 8(b)(2) and 8(b)(3) of the Act.

- 71. To the conclusions of Law numbered 3, 4, 5, 6, 7, 8, 9 and 10.
- 72. To all of the Recommendations, p. 26, 1. 62 p. 29, 1. 5.
- 73. Renew herein all automatic exceptions to ruling of the Trial Examiner during the hearing.

Respectfully submitted,

VAN ARKEL AND KAISER by

- (s) GERHARD VAN ARKEL
- (s) GEORGE KAUFMANN

SEGAL AND FLAMM by

(s) ROBERT M. SEGAL

Counsel for Respondents

Dated: January 23, 1959

#### DECISION AND ORDER

Case No. 1-CB-429
- Case No. 1-CB-430

On December 17, 1958, Trial Examiner Reeves R. Hilton issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. He also found that the Respondents had not engaged in certain other alleged unfair labor practices and recommended dismissal of the complaint with respect to such allegations. Thereafter, the Respondents, the General Counsel, and Worcester filed exceptions to the Intermediate Report and supporting briefs.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the rulings of the Trial Ex-

aminer made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings, conclusions and recommendations of the Trial Examiner.

#### ORDER

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that:

- I. The Respondents International Typographical Union, AFL-CIO, and International Typographical Union Local 38, AFL-CIO, and their officers, agents, and representatives shall:
  - (a) Cease and desist from:
  - (1) Refusing to bargain collectively with Haverhill Gazette Company for all the employees in the unit

We agree with the Trial Examiner's finding that by striking to force the Companies to accede to the Respondents' demands for the illegal foreman and general laws clauses, the Respondents violated Section 8 (b) (2); but we find it unnecessary to pass upon his finding that the Respondents violated Section 8 (b) (2) by so striking also for the jurisdiction clause.

The Respondents' request for oral argument is hereby denied as the record, exceptions and briefs adequately present the issues and positions of the parties.

123 NLRB No. 97

<sup>&</sup>lt;sup>2</sup> In view of the fact, as found by the Trial Examiner, that the Companies had no substantial objections to the Respondents' contract proposals or general laws covering the apprenticeship and priority systems, and therefore the Respondents' demands in this connection did not prevent the parties from reaching agreement on a new contract, we agree with the Trial Examiner's finding that in this respect the Respondents did not refuse to bargain in violation of Section 8 (b) (3). We wish to make clear, however, that by demanding the apprenticeship and priority systems established in the general laws, which systems delegate exclusive control to the Respondents did "attempt to cause" discrimination in violation of Section 8 (b) (2). See International Brotherhood of Teamsters, etc., (Pacific Intermountain Express Company), 107 NLRB 837.

found appropriate herein, specifically by insistence upon acceptance of the Respondent Unions' jurisdiction, foreman and general laws\_clauses, or by any other means, so long as the Respondent Unions are the representatives of the employees in the above described bargaining unit;

- (2) Engaging in strike action, or directing, instigating, or encouraging employees to engage in or threaten to engage in strike action, or approving or ratifying strike action taken by the employees, for the purpose of forcing Haverhill Gazette Company to execute an agreement requiring membership in the International Typographical Union as a condition of employment in violation of Section 8 (a) (3) of the Act;
- (3) In any other manner causing or attempting to cause Haverhill Gazette Company to discriminate against employees in violation of Section 8 (a) (3) of the Act;
- (4) In any manner restraining or coercing Haverhill Gazette Company in the selection of its representatives for the purpose of collective bargaining or the adjustment of grievances.
- (b) Take the following affirmative action which the Board finds will effectuate the policies of the Act:
  - (1) Upon request, bargain collectively as the exclusive bargaining representative of the employees in the unit found to be appropriate;
  - (2) Post at conspicuous places at the business office of the Respondent International Typographical Union and the Respondent Local 38, and all other places where notices or communications to members of Respondent Local 38 are customarily posted, including the composing room of Haverhill Gazette Company, the Company being willing, a copy of the notice attached to the

Intermediate Report marked Appendix A.3 Copies of said notice, to be furnished by the Regional Director for the First Region, shall, after being signed by a duly authorized officer of the Respondent International Typographical Union and an officer of Respondent Local 38, be posted immediately upon receipt thereof and remain so posted for a period of sixty (60) consecutive days. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by any other material;

(3) Notify the Regional Director for the First Region, in writing, within ten (10) days from the date of this Order what steps the Respondents have taken

to comply therewith.

II. The Respondents International Typographical Union, AFL-CIO, its executive council, Woodruff Randolph, Harold H. Clark, Joe Bailey, Don Hurd and Charles M. Lyon, and International Typographical Union Local 165, AFL-CIO, and its scale committee, and their officers, agents and representatives shall:

(a) Cease and desist from:

(1) Refusing to bargain collectively with Worcester Telegram Publishing Company, Inc., for all the employees in the unit found appropriate herein, specifically by insistence upon acceptance of the Respondent Unions' jurisdiction, foreman, and general laws clauses, or by any other means, so long as the Respondent Unions are the representatives of the employees in the above-described bargaining unit;

This notice shall be amended by substituting for the words "THE RECOMMENDATIONS OF A TRIAL EXAMINER" the words "A DECISION AND ORDER." In the event this Order is enforced by a decree of a United States Court of Appeals, the notice shall be further amended by substituting for the words "PURSUANT TO A DECISION AND ORDER" the words "PURSUANT TO A DECREE OF THE UNITED STATES COURT OF APPEALS, ENFORCING AN ORDER."

- (2) Engaging in strike action, or directing, instigating, or encouraging employees to engage in or threaten to engage in strike action, for the purpose of forcing Worcester Telegram Publishing Company, Inc., to execute an agreement requiring membership in the International Typographical Union as a condition of employment in violation of Section 8 (a) (3) of the Act;
- (3) In any other manner causing or attempting to cause Worcester Telegram Publishing Company, Inc., to discriminate against employees in violation of Section 8 (a) (3) of the Act;
- (4) In any manner restraining or coercing Worcester Telegram Publishing Company, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.
- (b) Take the following affirmative action which the Board finds will effectuate the policies of the Act:
- (1) Upon request, bargain collectively as the exclusive bargaining representative of the employees in the unit found to be appropriate.
- (2) Post at conspicuous places at the business office of the Respondent International Typographical Union and the Respondent Local 165, and all other places where notices or communications to members of Respondent Local 165 are customarily posted, including the composing room of Worcester Telegram Publishing Company, Inc., the Company being willing, a copy of the second notice attached to the Intermediate Report marked Appendix A.4 Copies of said notice.

This notice shall be amended by substituting for the words "THE RECOMMENDATIONS OF A TRIAL EXAMINER" the words "A DECISION AND ORDER." In the event this Order is enforced by a decree of a United States Court of Appeals, the notice shall be further

to be furnished by the Regional Director for the First Region, shall, after being signed by a duly authorized officer of the Respondent International Typographical Union and an officer of Respondent Local 165, and the individual Respondents, be posted immediately upon receipt thereof and remain so posted for a period of sixty (60) consecutive days. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by any other material;

(3) Notify the Regional Director for the First Region, in writing, within ten (10) days from the date of this Order what steps the Respondents have taken to comply therewith.

Dated, Washington, D. C., April 17, 1959

PHILIP RAY RODGERS.

Member

JOSEPH ALTON JEWKINS,

Member

JOHN H. FANNING,

Member

National Labor Relations Board

(SEAL)

## DECISION AND DETERMINATION OF DISPUTE

Case No. 1-CD-49

This proceeding arises under Section 10 (k) of the Act which provides that "Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph 4 (D) of Section 8 (b), the Board

amended by substituting for the words "PURSUANT TO A DECISION AND ORDER" the words "PURSUANT TO A DECREE OF THE UNITED STATES COURT OF APPEALS, ENFORCING AN ORDER."

is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen . . . . . . . . . . . .

On December 2, 1957, Worcester Telegram Publishing Company, Inc., herein called Worcester Telegram or Employer, filed with the Regional Director for the First Region a charge against International Typographical Union, AFL-CIO, and Members of its Executive Council, and against International Typographical Union, AFL-Cio. Local 165, and the latter's Scale Committee, herein jointly called Respondents, alleging that the Respondents had engaged in and were engaging in certain activities proscribed by Section 8 (b) (4) (D) of the amended Act. It was charged, in substance, that the Respondents had induced and encouraged the employees of the Worcester Telegram to engage in a strike or concerted refusal in the course of their employment to handle or work on goods with an object of forcing or requiring the Worcester Telegram to assign particular work to employees who are members of Respondent Unions rather than to employees in another trade, craft, or class,

Thereafter, pursuant to Section 10 (k) of the Act and Sections 102.79 and 102.80 of the Board's Rules and Regulations, the Regional Director investigated the charge and provided for an appropriate hearing upon due notice to all parties. The hearing was held before I. L. Brondwin, hearing officer, on February 24 and 25, March 25, April 2, and May 16, 1958. All parties appeared at the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The rulings of the hearing officer made at the hearing are free from prejudicial error and are hereby affirmed. The Respondents and the Worcester Telegram filed briefs with the Board.

Pursuant to the provisions of Section 3 (b) of the Act,

the Board has delegated its powers in connection with this case to a three-member panel.

The Respondents have requested oral argument. The request is hereby denied because the record and the briefs adequately present the issues and the positions of the parties.

Upon the entire record in the case, the Board finds:

1. The Worcester Telegram is engaged in the publication, sale and distribution of newspapers in the Worcester, Massachusetts, area. During the past year, the Worcester Telegram, in the course and conduct of its publishing operations, held membership in, and subscribed to, various interstate news services, including United Press Association and Associated Press, advertised nationally sold products, and had gross revenue from its operations in excess of \$500,000. We find that the Worcester Telegram is engaged in commerce within the meaning of the Act.

2. International Typographical Union, AFL-CIO, and International Typographical Union, AFL-CIO, Local 165, are labor organizations within the meaning of the Act.

3. The alleged dispute.

### A. The Facts

The Respondent Unions have represented Worcester Telegram employees in collective bargaining for many years. The Unions' last written contract with Worcester Telegram covered composing room employees and expired December 31, 1954. Thereafter, about June or July, 1956, the contracting parties instituted a series of bargaining meetings for the purpose of reaching a new written bargaining agreement. Several months after the start of those meetings Respondent Local 165 submitted a written contract proposal containing a clause setting forth the Local's proposed work jurisdiction. The first portion of the proposed clause was basically the same as a work jurisdiction

clause which was included in the expired December 1954 agreement; the latter portion of the proposal contained work jurisdiction coverage not previously set forth in the Respondents' contracts with the Worcester Telegram. The pertinent new portions of the work jurisdiction proposal were, as follows:

Jurisdiction of the Union . . . includes classifications such as: . . . operators and machinists on all mechanical devices, which cast or compose . . . film; operators of tape perforating machines and recutter units for use in composing or producing type; operators of all phototypesetting machines (such as Fotosetter, Photon, . . .); employees engaged in proofing, waxing and paste-makeup with reproduction proofs, processing the product of photypesetting machines, including development and waxing; paste-makeup of all type, hand-lettered, illustrative, border and decorative material constituting a part of the copy; ruling, photoproofing; correction, alteration, and imposition of the paste-makeup serving as the completed copy for the camera used in the plate-making process. Paste-makeup for the camera as used in this paragraph includes all photostats and prints used in offset or letterpress work and includes all photostats and positive proofs of illustrations (such as Velox) where positive proofs can be supplied without sacrifice of quality or duplication of efforts. The Employer shall make no other contract covering work as described above, especially no contract using the word 'stripping' to cover any of the work above mentioned.

With respect to the new portion of the proposed jurisdiction clause, it appears that the Employer's artists, who work in its art and advertising departments and are not represented by the Respondents, have for about 15 years, been performing operations which the Employer's officials refer to as paste-makeup (or paste-up), stripping and

ruling. Paste-makeup, as performed in the Employer's operation, is "An assembly of art work, illustrations, border work, ruling, type matter, reproduction proofs of type matter, to assemble this all on a page or partial page to go to the camera to be photographed by photo-engravers:" stripping is the removal of incorrect type and insertion, by pasting, of correct type on a paste-makeup page; and ruling is the underlining or line bordering, vertically or horizontally, on a paste-makeup page. None of the remaining types of operations set forth in the new, portion of the proposed work jurisdiction clause was being performed by employees of the Employer at the time the proposal was made.

About May 1957, the president of Respondent Local 165 and Employer officials began to discuss having composing room employees perform some of the paste-makeup operations which the artists were then doing. The Respondents claimed the paste-makeup work for the composing room employees on the theory that it was an operation which was a substitute for composing room processes. Pursuant to these discussions, it appears that the Employer orally and informally "agreed" to give to the Respondents' members the paste-makeup work involving reproduction proofs of type which had previously been composed in the composing room. Such work was to be started by the Respondents' members after they became qualified to do it, and after necessary building alterations involving the composing room were completed. The Employer did not agree to give to the Respondents' compositors paste-makeup work involving any lettering or illustrations other than the compositors' own reproduction proofs.

About July 1957, the Respondent Local sent one of its members, then working in the Employer's composing room, to a school operated by the Respondent International for

training in paste-makeup work. When this employee returned to Worcester, the Respondents organized a school; and the employee trained about 80 other members of the Respondent Local in paste-makeup work.

Meanwhile, the parties continued their negotiations for a new written contract. Meetings were held on November 26 and 27, 1957. At those meetings the Respondents' officials, among other things, demanded Employer acceptance of the Respondents' work jurisdiction proposal pertaining to paste-makeup because the Respondents "were fighting for job security and this was a parallel or substitute process for their conventional way of doing this type of work and, therefore, they are entitled to have it made available to their membership." The Employer rejected the demand because "the people presently employed in that type of work would have to have that work taken away from them in order to satisfy this Union demand or that it would be necessary for them to join the Union in order to qualify for the work."

At the November 27, 1957, meeting an Employer representative stated that, "the stumbling block to a final contract... were three items principally: (1) the Union foremen clause, (2) the insistence upon acceptance of the general laws of the I.T.U., and (3) the so-called jurisdiction clause." And a representative of the Respondents replied, "In our opinion these clauses are legal... We will not withdraw these demands."

The Respondents' members went out on strike on November 29, 1957. They were picketing the Employer's plant at the time of the hearing in this proceeding.

Since the commencement of the strike some of the Employer's non-striking employees have started to use tapperforating machines, another of the operations included in the Respondents' proposed work jurisdiction clause.

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### B. The Contentions of the Parties

The Worcester Telegram contends that, by the above-described conduct, the Respondents violated Section 8 (b) (4) (D) of the Act. The Respondents advance a number of contentions in support of the assertion that their strike was not proscribed by the provisions of Section 8 (b) (4) (D). Their basic assertion appears to be that their strike was "to achieve a satisfactory agreement;" and that, to the extent the strike was in support of the proposed work jurisdiction clause, it was merely a demand that the Respondents' members continue to "perform certain work by whatever means performed." Sequentially, they argue that such a demand did not require the Employer to reassign work from nonmembers of the Respondents to their members.

### C. Applicability of the Statute

In a proceeding under Section 10 (k) of the Act the Board is required to find that there is reasonable cause to believe that Section 8 (b) (4) (D) has been violated before proceeding with a determination of the dispute out of which the alleged unfair labor practice has arisen.

As stated above, the essence of the Respondents' position is that the purpose of their strike was "to achieve a satisfactory agreement." They assert that they were striking to obtain Employer concessions on about 15 economic issues which derived from their written contract proposal. The Respondents also claim that the strike was partially in protest against the Employer's failure properly to apply job priority for employees as well as its refusal to comply with the Respondents' requests for negotiation meetings. On the other hand, the president of the Respondent Local testified that the work jurisdiction clause was one of the issues on which the "Company and the Union were apart." Indeed, the Respondents admit in their brief that, "at the

time of the strike," they were "in disagreement," with the Employer concerning the work jurisdiction clause of the proposed contract. Accordingly, at least a portion of the Respondents' purpose in striking was to resolve the "disagreement" over the work jurisdiction clause by forcing or requiring the Employer to accept that clause. It follows, therefore, that if the Respondents' work jurisdiction proposal required the assignment of work to its members rather than to "employees in another labor organization or in another trade, craft, or class," the Respondents' strike was for an unlawful object within the meaning of Section 8 (b) (4) (D).

As noted above, the Respondents contend that the proposed work jurisdiction clause was merely a demand that the Respondents' members continue to "perform certain work by whatever means performed." Implicit in this contention is the claim that their members were, in fact, performing all the work operations described in the proposal. The record does not support the Respondents' claim. The record shows with respect to the paste-makeup operations included in the Respondents' proposal, that artists in the Employer's art and advertising departments have, for about 15 years, been performing paste-makeup work!

The Respondents assert that the Employer was confused about, and misinterpreted the scope of, the term "paste-makeup" used in the Respondents' work jurisdiction proposal. The basis for this assertion apparently, is the Employer's occasional use of the term "paste-up," which the Employer used, for example, in the charge filed herein. However, the record establishes that the only confusion or misinterpretation involved was the appropriate term to be used to describe particular work functions. Both the Respondents' representatives and the Employer's established by their record testimony that the specific work, which the 2 slightly varying terms were intended to describe, was one and the same. Accordingly, we reject the Respondents' assertion.

Those artists were not members of or represented by, the Respondents.2

The record thus establishes that the Respondents struck with an object of forcing or requiring the Employer to assign to the Respondents' members working in the composing room the paste-makeup work which the Employer had assigned to artists who were not members of the Respondents and who had been performing the paste-makeup operations. Apparently anticipating that the record establishes these facts, the Respondents argue, in the alternative, that the amount of work in dispute was de minimis for the purposes of 8 (b) (4) (D). Related to this argument is the Respondents' assertion that they did not seek the discharge of any employees. Whether a union's conduct, which is intended to force the reassignment of work within the meaning of Section 8 (b) (4) (D), will require the actual discharge of those employees who are deprived of the disputed work is completely irrelevant to the resolution of an 8 (b) (4) (D) issue. In other words, a finding that the Employer would or would not have discharged its artists, if it had acceded to the Respondents' unlawful pressure herein, is not determinative of the question whether there is reasonable cause for finding that the Respondents violated 8 (b) (4) (D). Moreover, the Board, in its judgment, rejects the Respondents' de minimis argument.

<sup>&</sup>lt;sup>2</sup> The Respondents contend that the paste-makeup work which the artists had been performing for 15 years was experimental. They also contend that the proposed work jurisdiction clause referred to permanent paste-makeup. Upon these contentions the Respondents request the Board to find that they made no present demand for the reassignment of work to their members. The record rebuts these contentions. The Employers' officials testified that the paste-makeup work was done by the artists on a permanent basis. Moreover, the performance of such work on an experimental basis for the extended period of 15 years is inherently unlikely. Accordingly, we find that the Respondents' demand for the Employer's paste-makeup work contained in the work jurisdiction proposal and the strike in support thereof constituted a present demand for work.

On the basis of the foregoing, and the entire record, we find that there is reasonable cause to believe that the Respondents induced or encouraged the Worcester Telegram's employees to engage in a strike with an object of forcing or requiring the Worcester Telegram to assign paste-make-up work to members of the Respondents rather than to other employees of the Worcester Telegram,—the artists—who were not members of the Respondents, thereby violating Section 8 (b) (4) (D) of that. We find, accordingly, that the dispute involved in this proceeding is properly before the Board for determination under Section 10 (k) of the Act.

### D. Merits of the Dispute

When the Respondents struck to require that their members be assigned the Employer's paste-makeup work, the Employer's artists, who were not members of the Respondent, were performing the work. The dispute, therefore, was one over the assignment of work by an employer to certain of its employees who were not members of the Respondents rather than to members of the Respondents. An employer is free to make such a work assignment free of strike pressure by a labor organization unless the employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing the work involved. There is no evidence, in this case, that the assignment of work by the

It is therefore unnecessary to decide herein whether there is reasonable cause to believe that another object of the Respondents' strike,— that is, the assignment of the Respondents' members of tape perforating machine operations, or of any other work, not being performed by any of the Employer's employees at the time the strike started on November 29, 1957—also violated Section 8 (b) (4) (D) of the Act.

<sup>&</sup>lt;sup>4</sup> International Longshoremen's and Warehousemen's Union, Local No. 16, CIO (Juneau Spruce Corporation), 82 NLRB 650.

Worcester Telegram was in contravention of any Board order or certification.

The Respondents contend, however, that, by the oral "agreement" they reached with the Employer in May 1957, the Employer, after lawful collective bargaining, assigned the disputed paste-nokeup work to the Respondents' members. They assert that the portion of their proposed work jurisdiction clause which referred to paste-makeup operations was merely a written incorporation of the oral "agreement." They argue, in substance, that the paste-makeup work was no longer in dispute when the strike was called at the end of November 1957. This argument seems to conflict with the Respondents' above-mentioned admission that there was still "disagreement" over the proposed work jurisdiction clause "at the time of the strike." But in any event, the argument is based upon selected record facts.

The entirety of the record shows that the oral "agreement" was far from definitive or conclusive. The Local's president, who negotiated the oral "arrangement" for the Respondents, testified that "the whole thing was up in the air as to what exactly would end up as the paste-makeup process in [the Respondents'] hands." He also testified, with respect to the effectiveness of the oral "agreement," that until a written contract was actually signed with the Employer the Respondents "were bound by nothing." However, irrespective of the ambiguity and inconclusiveness of the oral "agreement," it is clear that the Employer conceded at the very most to assign to the Respendents' members only paste-makeup work of the reproduction proofs originating in the composing room. In contrast, as shown by the testimony of the Local's president and the language of the Respondents' proposal itself, the Respondents actually wanted the Employer to assign to

their members all paste-makeup, not just that based upon composing room reproduction proofs.

In such circumstances, we find that the Employer did not assign the disputed paste-makeup work to the Respondents and that the Respondents do not have a contractual right to that work.

The Board finds, accordingly, that the Respondents were not and are not lawfully entitled by means prescribed by the statute to force or require the Worcester Telegram to assign paste-makeup work to the Respondents' members rather than to the employees assigned by the Worcester Telegram to perform such work.

### E. Determination of Dispute

Upon the basis of the foregoing findings and the entire record in this case, the Board makes the following determination of dispute pursuant to Section 10 (k) of the Act.

1. International Typographical Union, AFL-CIO, Members of its Executive Council, and International Typographical Union, AFL-CIO, Local 165, its Scale Committee, and their respective agents are not and have not been lawfully entitled to force or require Worcester Telegram Publishing Company, Inc., to assign the work in dispute to mem-

<sup>&</sup>lt;sup>5</sup> Also revealing in reference to the merit of the Respondents' contention that the proposed work jurisdiction clause was merely a written incorporation of the May 1957 oral "agreement" is the fact that the Respondents submitted the proposed contract clause to the Employer almost a year before the parties had reached the oral "agreement" in question.

The Respondents contend that "the case at bar should be excluded from the 10 (k) determinations, for the NLRB cannot meet the mandate of the Court in N.L.R.B. v. United Ass'n of Journeymen and Apprentices of the Plumbing Industry (3 C.C.A. 1957, 39 LRRM 2629)." ... (Also commonly known as the Hake case). The Respondents have not advanced reasons to support this contention. Moreover, this Board respectfully disagrees with the Court of Appeals opinion in the Hake case. See Longshoremen's and Warehousemen's Union Denali-McCray Construction Company). 118 NLRB 109, note 4.

bers of said labor organizations, rather than to that Company's employees of its choice.

2. Within ten (10) days from the date of this Decision and Determination of Dispute, the Respondents shall notify the Regional Director for the First Region of the National Labor Relations Board, in writing, whether or not it accepts this determination of the dispute and whether or not it will refrain from forcing or requiring Worcester Telegram Publishing Company, Inc., to assign the work in dispute to members of the Respondents rather than to employees of the Company's choice by means proscribed by Section 8 (b) (4) (D) of the Act.

Dated, Washington, D. C. SEP 9 1958

Boyd Leedom, Chairman Philip Ray Rodgers, Member

(SEAL) Joseph Alton Jenkins, Member
(SEAL) NATIONAL LABOR RELATIONS BOARD

### UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 5509
International Typographical Union
Local 38, AFL-CIO and International
Typographical Union Local 165 AFLCIO and its Scale Committee

Petitioners

National Labor Relations Board Respondent .

## PETITION FOR REVIEW OF A DECISION AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD

[Filed in Court of Appeals April 29, 1959]

International Typographical Union Local 38, AFL-CIO (hereinafter referred to as "Local 38") and International Typographical Union Local 165, AFL-CIO and its Scale Committee (hereinafter referred to as "Local 165") respectfully petition this Honorable Court to review a decision and order of the National Labor Relations Board entered on April 17, 1959, in a consolidated proceeding entitled International Typographical Union, AFL-CIO, etc. and Haverhill Gazette Co. (Board case 1-CB-429) and International Typographical Union, AFL-CIO, etc. and Worcester Telegram Publishing Co. (Board Case 1-CB-430), and prays that the order of the Board in the said proceeding be set aside.

This petition is filed pursuant to Section 10(f) of the Labor-Management Relations Act, 1947, 29 U.S.C. § 160 (f) (Supp. 1952) (hereafter referred to as "the Act".) In accordance with Rule 16(1) of the Rules of this Court, the Petitioners state as follows:

1. The Nature of the Proceeding as to Which Review is Sought.

The proceeding as to which review is here sought is a proceeding under § 10(b) of the Act. The proceeding was initiated by charges filed by two newspaper publishing companies, the Haverhill Gazette Company (hereafter "the Gazette") (1-CB-429) and the Worcester Telegram Publishing Company, Inc. (hereafter "the Telegram") (1-CB-430). Pursuant to these charges, the General Counsel of the National Labor Relations Board issued complaints, dated February 6, 1958, alleging that the Locals had engaged in unfair labor practices within the meaning of §§ 8(b) (1) (A), 8(b) (1) (B), 8(b) (2) and 8(b) (3) of the Act. The complaint in 1-CB-429 also named as party respondent International Typographical Union and certain named individuals who comprised the Executive Council of the ITU.

The alleged unfair labor practices arise out of negotiations for collective bargaining agreements which Local 38 and Local 165 had with the Gazette and Telegram respectively. It was alleged that respondent local "insisted" on the incorporation of certain provisions into the collective bargaining agreements; it was charged that by this insistence they "caused or attempted to cause" the respective publishers to discriminate against their employees in violation of § 8(b) (3) of the Act and thereby violated § 8(b) (2). Respondents were also charged with thereby restraining and coercing employees in violation of § 8(b) (1) (A). It was further alleged that respondents insisted on the incorporation of a clause in the agreement requiring the oforeman to be a member of the union and thereby violated § 8(b) (1) (B). It was further alleged that the respondents "adamantly insisted and insist" on the incorporation of certain provisions into the agreement and thereby violated 8(b) (3) of the Act.

Respondents denied by answer the commission of any unfair labor practices. In the Worcester case a hearing was held before Trial Examiner Reeves R. Hilton on April 2, 3, 4 and 29, 1958. By stipulation the records in certain other proceedings were also incorporated into the proceedings before the Board; the main record in the Haverhill case was from Alpert v. ITU, an injunction proceeding pursuant to § 10(j) of the Act, before Judge Aldrich in the District Court for Massachusetts.

On December 17, 1958, Trial Examiner Hilton issued his Intermediate Report finding that Respondents had engaged in certain unfair labor practices and that they had not engaged in certain other practices. Exceptions to the Intermediate Report and briefs in support of the exceptions were filed by the General Counsel; the Respondents and the Telegram, as charging party in Case 1-CB-430.

On April 17, 1959 the Board rendered its Decision and Order, in which it adopted the findings, conclusions and recommendations of the Trial Examiner, adding only a footnote to express its own opinion.

The Board's order requires Respondents to cease and desist from refusing to bargain collectively with the respective publishers, engaging in strike action for certain purposes, "in any other manner causing or attempting to cause," the publishers to discriminate against their employees, etc. or coercing the publishers in their choice of bargaining representatives. Respondents were also ordered to take certain affirmative action.

2. The Facts and Statutes Upon Which Jurisdiction Is Based.

Section 10(f) of the Act provides in part that "Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought

may obtain a review of such order in any United States

court of appeals in the circuit wherein the unfair labor practice in question was alleged to have been engaged in . . . by filing in such Court a written petition praying that the order of the Board be modified or set aside.

The petitioners as parties charged and found by the Board to have committed unfair labor practices are "persons aggrieved" by the order: The unfair labor practices were alleged to have been committed in Haverhill, Mass. and Worcester, Mass., within this Circuit.

### 3. The Relief Prayed.

The Petitioners pray that this Court set aside the decision and order of the Board.

### 4. The Points on Which Petitioner Intends to Rely.

- (1) The findings of the Board are not supported by "substantial evidence on the record as a whole" as required by § 10(e) of the Act.
- (2) The Board's decision is wrong as a matter of law under § 8(b) (1) (b), § 8(b) (2) and § 8(b) (3). If the contract is illegal under any or all of these sections, the Act is to that extent unconstitutional under the Due Process Clause of the Fifth Amendment of the U. S. Constitution.
- (3) The Board's interpretation of the contract proposals is wrong as a matter of law.
- (4) The Board engaged in presumptions, on which it based its conclusions, which were beyond its powers under § 10(e) of the Act and which are contrary to the Due Process Clause of the Fifth Amendment to the U. S. Constitution.
- (5) By failing to state in the complaint and in later stages of the proceeding whether respondents were charged with "causing" or "attempting to cause" violations of § 8(a) (3), the Board denied respondents adequate opportunity to defend, contrary to the Due Process Clause of the

Fifth Amendment to the U.S. Constitution, the LMRA and Administrative Procedure Act and the Board's Rules and Regulations.

- (6) To the extent that the Board's Order interferes with the operation of the International's General Laws and the internal laws of the respective Locals it is beyond the Board's power under the proviso to § 8(b) (1) (A) of the Act; if that proviso is not so interpreted the Act is to that extent unconstitutional under the First Amendment to the U.S. Constitution.
- (7) Certain findings of the Board relate to its decision in another proceeding involving an interpretation of § 8 (b) (4) (d) and § 10(k) of the Act. This decision of the Board is erroneous as a matter of law under those sections, and its conclusion in the present case based on that decision is, for that additional reason, erroneous.
- (8) Certain conclusions with respect to the bargaining unit are erroneous as a matter of law under § 9(c) of the Act, and were beyond the powers of the Board to declare in the proceedings before it.
- (9) The Board's order is so vague and broad that it is beyond its powers under § 10(a) and (c) of the Act; if §§ 10(a) and (c) are interpreted as giving that power the Act is to that extent unconstitutional in view of the Due Process Clause of the Fifth Amendment to the U. S. Constitution.
- (10) The Gazette and Local 38 have arrived at an amicable settlement of all differences and have entered into a collective bargaining agreement. The Gazette on May 29, 1958 advised the Board of this settlement, withdrew the charges filed herein and requested the dismissal of the complaint against Local 38 and the ITU. The refusal of the Board to comply with this request was arbitrary and capricious and not in accordance with the policies of the Act.

(11) The Board's decision and order is not reasonably designed to effectuate the policies of the Act.

Respectfully submitted, s/Robert M. Segal Robert M. Segal SEGAL & FLAMM 11 Beacon Street Boston 8, Mass. Attorneys for Petitioners

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD TO PETITION FOR REVIEW AND SET ASIDE ORDER OF THE BOARD AND REQUEST OF THE BOARD FOR ENFORCEMENT OF SAID ORDER No. 5509

The National Labor Relations Board, by its Associate General Counsel, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C. Secs. 151, et seq., as amended by 72 Stat. 945) hereinafter called the Act, files this Answer to the petition for review and set aside the Board order issued against petitioner on April 17, 1959.

1. The Board admits the alegations contained in paragraphs 1 and 2.

2. The Board denies the allegations of error contained in points (1) to (11) of paragraph 4 and with respect to the allegations in regard to the nature of the proceedings, evidence, and findings and conclusions of the Trial Examiner and the Board, the Board prays reference to the certified transcript of the entire record for a full and exact statement of the proceedings before the Board, for a full and exact statement of the pleadings, evidence, findings of fact, conclusions of law, and Order of the Board, and all other proceedings had in this matter.

3. Further answering, the Board avers that the proceedings had before it, the findings of fact, conclusions of law, and order of the Board were and are in all respects valid and proper under the Act, and, pursuant to Section 10(e) of the Act, respectfully requests this Honorable Court to enforce the Board's order issued against petitioner in the proceeding designated on the records of the Board as Case Nos. 1-CB-429 and 1-CB-430, as stated in the petition.

In support of this request for enforcement, the Board shows that:

- 1. After due proceedings in said matter, the Board on April 17, 1959, entered its findings of fact and conclusions of law, and issued its order directed to petitioner, its officers, agents, successors and assigns.
- 2. The same day said decision and order was served upon the petitioner.
- 3. Pursuant to Section 10(e) and (f) of the Act and Rule 16 (7) of this Court, the Board is certifying and filing with this Court a certified list of all documents, franscripts of testimony, exhibits and other material comprising the entire record of the proceedings before the Board upon which the said order was entered, which includes the pleadings testimony and evidence, findings of fact, conclusions of law, and the order of the Board sought to be enforced.

WHEREFORE, the Board prays that this Honorable Court cause notice of the filing of this Answer and request for enforcement to be served upon petitioner, and that this Court make and enter a decree denying the petition to review and enforcing the Board's order in full.

Thomas J. McDermott

Thomas J. McDermott

Associate General Counsel

NATIONAL LABOR RELATIONS BOARD

Dated at Washington, D. C., this 5th day of June, 1959.

### UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 5510

International Typographical Union, A.F.L.-C.I.O.

Petitioner

National Labor Relations Board Respondent

# PETITION FOR REVIEW OF A DECISION AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD

[Filed in Court of Appeals April 29, 1959]

International Typographical Union, A.F.L.-C.I.O. (hereafter referred to as "ITU") respectfully petitions this Honorable Court to review a decision and order of the National Labor Relations Board entered on April 17, 1959, in a consolidated proceeding entitled International Typographical Union, A.F.L.-C.I.O., etc. and Haverhill Gazette Co. (Board Case 1-CB-429) and International Typographical Union, A.F.L.-C.I.O., etc. and Worcester Telegram Publishing Co. (Board Case 1-CB-430), and pray that the order or the Board in the said proceeding be set aside.

This petition is filed pursuant to Section 10(f) of the Labor-Management Relations Act, 1947, 29 U. S. C. § 160(f) (Supp. 1952) (hereafter referred to as "the Act".) In accordance with Rule 16(1) of the Rules of this Court, the Petitioner states as follows:

1. The Nature of the Proceeding as to Which Review is Sought.

The preceeding as to which review is here sought is a proceeding under § 10(b) of the Act. The proceeding was initiated by charges filed by two newspaper publishing companies, the Haverhill Gazette Company (hereafter "the Gazette") (1-CB-429) and the Worcester Telegram Publishing Company, Inc. (hereafter "the Telegram") (1-CB-430). Pursuant to these changes, the General Counsel of the National Labor Relations Board issued complaints, dated February 6, 1958, alleging that the ITU had engaged in unfair labor practices within the meaning of §§ 8(b) (1) (A), 8(b) (1) (B), 8(b) (2) and 8(b) (3) of the Act. The complaint in 1-CB-429 also named as party respondent L. ternational Typographical Local 38; the charge in 1-CB-430 also charged International Typographical Union Local 165, its Scale Committee, and certain named individuals who comprised the Executive Council of the ITU.

The alleged unfair labor practices arise out of negotiations for collective bargaining agreements which Local 38 and Local 165 had with the Gazette and Telegram respectively. It was alleged that respondent local "insisted" on the incorporation of certain provisions into the collective bargaining agreements; it was charged that by this insistence they "caused or attempted to cause" the respective publishers to discriminate against their employees in violation of § 8(a) (3) of the Act and thereby violated § 8(b) (2). Respondents were also charged with thereby restraining and coercing employees in violation of § 8(b) (1) (A). It was further alleged that respondents insisted on the incorporation of a clause in the agreement requiring the foreman to be a member of the union and thereby violated § 8(b) (1) (B). It was further alleged that the respondents "adamantly insisted and insist" on the incorporation of

certain provisions into the agreement and thereby violated 8(b) (3) of the Act.

Respondents denied by answer the commission of any unfair labor practices. In the Worcester case a hearing was held before Trial Examiner Reeves R. Hilton on April 2, 3, 4, and 29, 1958. By stipulation the records in certain other proceedings were also incorporated into the proceedings before the Board; the main record in the Haverhill case was from Alpert v. ITU, an injunction proceeding pursuant to § 10(j) of the Act, before Judge Aldrich in the District Court for Massachusetts.

On December 17, 1958, Trial Examiner Hilton issued his Intermediate Report finding that Respondents had engaged in certain unfair labor practices and that they had not engaged in certain other practices. Exceptions to the Intermediate Report and briefs in support of the exceptions were filed by the General Counsel, the Respondents and the Telegram, as charging party in Case 1-CB-430.

On April 17, 1959 the Board rendered its Decision and Order, in which it adopted the findings, conclusions and recommendations of the Trial Examiner, adding only a footnote to express its own opinion.

The Board's order requires Respondents to cease and desist from refusing to bargain collectively with the respective publishers, engaging in strike action for certain purposes, "in any other manner causing or attempting to cause" the publishers to discriminate against their employees, etc. or coercing the publishers in their choice of bargaining representatives. Respondents were also ordered to take certain affirmative action.

Section 10(f) of the Act provides in part that

<sup>2.</sup> The Facts and Statutes Upon Which Jurisdiction Is Based.

<sup>&</sup>quot;Any person aggrieved by a final order of the Board

granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals in the circuit wherein the unfair labor practice in question was alleged to have been engaged in . . . by filing in such Court a written petition praying that the order of the Board be modified or set aside."

The petitioner as a party charged and found by the Board to have committed unfair labor practices is a "person aggrieved" by the order. The unfair labor practices were alleged to have been committed in Haverhill, Mass. and Worcester, Mass., within this Circuit.

### 3. The Relief Prayed.

The Petitioner prays that this Court set aside the decision and order of the Board.

### 4. The Points on Which Petitioner Intends to Rely.

- (1) The findings of the Board are not supported by "substantial evidence on the record as a whole" as required by § 10(e) of the Act.
- (2) The Board's decision is wrong as a matter of law under § 8(b) (1) (b), § 8(b) (2) and § 8(b) (3). If the contract is illegal under any or all of these sections, the Act is to that extent unconstitutional under the Due Process Clause of the Fifth Amendment of the U. S. Constitution.
- (3) The Board's interpretation of the contract proposals is wrong as a matter of law.
- (4) The Board engaged in presumptions, on which it based its conclusions, which were beyond its powers under § 10(e) of the Act and which are contrary to the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
- (5) By failing to state in the complaint and in laterstages of the proceeding whether respondents were charged with "causing" or "attempting to cause" violations of

- § 8(a) (3), the Board denied respondents adequate opportunity to defend, contrary to the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the LMRA and Administrative Procedure Act and the Board's Rules and Regulations.
- (6) To the extent that the Board's Order interferes with the operation of the International's General Laws and the internal Laws of the respective Locals it is beyond the Board's power under the proviso to § 8(b) (1) (A) of the Act; if that proviso is not so interpreted the Act is to that extent unconstitutional under the First Amendment to the U. S. Constitution.
- (7) Certain findings of the Board relate to its Decision in another proceeding involving an interpretation of § 8 (b) (4) (d) and § 10(k) of the Act. This decision of the Board is erroneous as a matter of law under those sections, and its conclusion in the present case based on that Decision is, for that additional reason, erroneous.
- (8) Certain conclusions with respect to the bargaining units are erroneous as a matter of law under § 9(c) of the Act, and were beyond the powers of the Board to declare in the proceedings before it; and the conclusion that the respondent ITU was the exclusive bargaining representative of employees in the unit is erroneous as a matter of law under § 9(a) of the Act.
- (9) The Board's order is so vague and broad that it is beyond its powers under § 10(a) and (c) of the Act; if §§ 10(a) and (c) are interpreted as giving that power the Act is to that extent unconstitutional in view of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
- of the alleged unfair labor practices. If the Act is interpreted as making ITU so chargeable it is to that extent

unconstitutional under the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

Respectfully submitted, s/Gerhard P. Van Arkel

Gerhard P. Van Arkel s/George Kaufmann

George Kaufmann
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Attorneys for Petitioner,
International Typographical Union,
A.F.L.-C.I.O.

ANSWER OF THE NATIONAL LABOR RELATIONS
BOARD TO PETITION FOR REVIEW AND SET
ASIDE ORDER OF THE BOARD AND REQUEST OF
THE BOARD FOR ENFORCEMENT OF SAID ORDER
No. 5510

The National Labor Relations Board, by its Associate General Counsel, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Secs. 151, et seq., as amended by 72 Stat. 945) (hereinafter called the Act), files this Answer to the petition for review and set aside the Board order issued against Petitioner on April 17, 1959.

1. The Board admits the allegations contained in paragraphs 1 and 2.

2. The Board denies the allegations of error contained in points (1) to (10) of paragraph 4 and with respect to the allegations in regard to the nature of the proceed-

Examiner and the Board, the Board prays reference to the certified transcript of the entire record for a full and exact statement of the proceedings before the Board, for a full and exact statement of the pleadings, evidence, findings of fact, conclusions of law, and Order of the Board, and all other proceedings had in this matter.

3. Further answering, the Board avers that the proceedings had before it, the findings of fact, conclusions of law, and order of the Board were and are in all respects valid and proper under the Act, and, pursuant to Section 10(e) of the Act, respectfully requests this Honorable Court to enforce the Board's order issued against Petitioner in the proceeding designated on the records of the Board as Case Nos. 1-CB-429 and 1-CB-430, as stated in the petition.

In support of this request for enforcement, the Board shows that:

- 1. After due proceedings in said matter, the Board on April 17, 1959, entered its findings of fact and conclusions of law, and issued its order directed to Petitioner, its officers, agents, successors and assigns.
- 2. The same day said decision and order was served upon the Petitioner.
- 3. Pursuant to Section 10(e) and (f) of the Act and Rule 16(7) of this Court, the Board is certifying and filing with this Court a certified list of all documents, transcripts of testimony, exhibits and other material comprising the entire record of the proceedings before the Board upon which the said order was entered, which includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the order of the Board sought to be enforced.

WHEREFORE, the Board prays that this Honorable Court cause notice of the filing of this Answer and request for enforcement to be served upon Petitioner, and that this Court make and enter a decree denying the petition to review and enforcing the Board's order in full.

/s/Thomas J. McDermott
Thomas J. McDermott
Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
at Washington, D. C.

Dated at Washington, D. C.; this 5th day of June, 1959

[fol. 512]

### IN UNITED STATES COURT OF APPEALS

#### FOR THE FIRST CIRCUIT

STIPULATION RE RECORD-Filed July 2, 1959

Petitioners in these cases and respondent by their counsel, hereby stipulate and agree that the cross designation of record by the parties is proper and sufficient to enable the Court to determine all the questions presented in petitioners' statements of points.

International Typographical Union Local 38, AFL-ClO, etc., Petitioners in No. 5509, By Robert M. Segal, Segal and Flamm, 11 Beacon Street, Boston 8, Mass.

[fol. 513] International Typographical Union, AFL-CIO, Petitioner in No. 5510, By Gerhard Van Arkel, Van Arkel and Kaiser, 1701 K Street, N.W., Washington 6, D. C.

National Labor Relations Board, Respondent, By Marcel Mallet-Prevost, Assistant General Counsel, 330 C Street, S. W., Washington, D. C.

### IN UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

ORDER ON STIPULATION-July 2, 1960

The stipulation of the petitioners and respondent, that the joint consolidated record appendix as designated by the parties is proper and sufficient to enable the Court to determine all the questions presented in petitioners' state, ment of points, is hereby approved.

### By the Court:

Roger A. Stinchfield, Clerk.

[fol. 515] MINUTE ENTRY OF ARGUMENT—December 2, 1960 (omitted in printing).

[fol. 517]

IN UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

No. 5509

AND INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 38, AFL-CIO AND INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 165, AFL-CIO AND ITS SCALE COMMITTEE, Petitioner,

V.

NATIONAL LABOR RELATIONS BOARD, Respondent.

No. 5510

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, Petitioner,

NATIONAL LABOR RELATIONS BOARD, Respondent.

On Petitions to Review and Set Aside and on Cross-Petitions to Enforce an Order of the National Labor Relations Board.

Before Woodbury, Chief Judge, Hartigan, Circuit Judge, and Wyzanski, District Judge.

Robert M. Segal and Gerhard Van Arkel, with whom Arthur J. Flamm, Henry Kafser, George Kaufman, Segal & Flamm, Van Arkel & Kaiser and Dickstein, Shapiro & Galligan were on brief, for petitioners.

Melvin Pollack, Attorney, with whom Stuart Rothman, General Counsel, Thomas J. McDermott, Associate General Counsel, and Marcel Mallet-Prevost, Assistant General Counsel, were on brief, for respondent.

[fol. 518]

### Opinion-May 10, 1960

Woodbury, Chief Judge. The Haverhill Gazette Company and the Worcester Telegram Publishing Company, Inc., Haverhill and Worcester or collectively the employers hereinafter, are and for years have been engaged in the business of publishing daily newspapers in their respective Massachusetts communities. Both subscribe to interstate news services, advertise nationally sold products and enjoy annual gross revenues from their publishing operations in excess of \$500,000. For a great many years the composing room employees, that is to say the primers, of Haverhill have been represented by Local 38 and the composing room employees of Worcester have been represented by Local · 165 of International Typographical Union, AFL-CIO. Preexisting contracts between Haverhill and Worcester and the local unions representing their composing room employees having in each instance long expired, and in each instance attempts to negotiate new agreements having come to naught, strikes of the composing room employees of both employers ensued. At this juncture, on separate charges filed by Haverhill and Worcester, General Counsel for the National Labor Relations Board on February 6, 1958, filed separate complaints against the parent union, ITU hereinafter, and the local involved in each situation alleging that

<sup>&</sup>lt;sup>1</sup> Included in the complaint issued on Worcester's charge are also the Executive Council of ITU and the Scale Committee of Local 165.

the respondents had been and were engaging in various acts and conduct in violation of the Labor Management Relations Act, 1947, 29 U.S.C. \ 141 et seq., 61 Stat. 136, as amended. The cases were consolidated for hearing by order of the Regional Director and hearings in the Worcester case were held in Worcester by a trial examiner in April, 1958. 'At those hearings evidence was introduced and counsel stipulated for the incorporation in the record. [fol. 519] in that case of the testimony of the president of ITU adduced in the New York Mailers Case, so called, Board Nos. 2-CB-4967, 2-CB-1769 and 2-CB-1807, and of the testimony in a proceeding under § 10(k) of the Act between ITU and Worcester. Counsel also stipulated that the record in a proceeding in the United States District Court for the District of Massachusetts for an injunction under § 10(j) of the Act entitled Alpert v. ITU, 161 F. Supp. 427 (D.C. Mass. 1958), should constitute the record in the Haverhill case.

On the evidence before him in both cases the trial examiner found that the respondents had engaged and were engaging in some of the unfair labor practices charged against them in the complaints but had not and were not engaging in others, and recommended an order which he thought appropriate to his findings. Exceptions to the trial examiner's intermediate report, with supporting briefs, were filed by the respondents but the Board, with an exception to be noted hereinafter, affirmed the trial examiner and adopted his findings, conclusions and recommendations, as its own: The respondents thereupon filed a petition in this court to review that order and set it aside and the Board countered with a petition for enforcement of its order.

There is little dispute over the facts, and the facts and issues in both cases are essentially the same. In both cases protracted negotiations for new collective bargaining agreements, in which officers of TU participated with representatives of the local unions and officials of the New England Daily Newspaper Association, Inc., participated with the employers, finally broke down and in consequence late in November, 1957, the locals with ITU sanction and approval called the composing room employees of both

employers out on strike. In each instance the bones of contention were much the same. The representatives of [fob-520] the local unions backed by the representatives of ITU adamantly insisted upon the inclusion of three clauses in any new contract and the representatives of the employers as adamantly insisted that the clauses were illegal and that no contract would be entered into in which the clauses were included. Moreover, regarding inclusion of the clauses as "key" issues both the employers' and the unions' representatives declined seriously to explore economic issues such as hours, overtime, pensions, summer holidays, etc., until agreement should be reached on the clauses they regarded as crucial.

The three clauses on which the negotiators deadlocked were the jurisdiction, foreman<sup>3</sup> and general laws clauses which may as well be briefly described at this point.

The jurisdiction clause, on which the unions in both instances insisted, covered persons engaged in a number of new processes and operations, in addition to those covered by the jurisdiction clauses of the old contracts, which new processes and operations the unions considered substitutes for the processes and operations traditionally performed in the composing room by printers but which, with two exceptions, the employers were not using and did not contemplate installing in their plants. The foreman clause provided that the composing room foreman, who had the power to hire, fire and process grievances, had to be a mem-

<sup>&</sup>lt;sup>2</sup> During the negotiations Worcester and Haverhill with the approval of the unions voluntarily granted their composing room employees an increase in wages.

<sup>3</sup> Haverhill did not consider the foreman clause a "key" issue.

<sup>&#</sup>x27;The new jurisdiction clause covered "paste-makeup" operations which at Worcester's plant had for many years been performed by artists who did not work in the composing room and had never been represented by Local 165. And it covered an operation or process involving the use of tape which Haverhill was using only experimentally.

<sup>&</sup>lt;sup>5</sup> The employers did not object to a union man being foreman. Indeed their foremen were union men. Their objection was to the requirement that their foreman had to be members of the union.

under certain circumstances from union discipline for activities on behalf of management. The general laws clauses provided that the General Laws of the International Typographical Union in effect on January 1, 1956 (or in another version at the time a contract was signed), if not in conflict with state or federal law, should govern relations between the parties on those subjects concerning which no provision was made in the contracts.

The trial examiner found that the unions were genuinely desirous of securing contracts with Worcester and Haverhill but that the evidence clearly showed that they insisted upon the acceptance of the jurisdiction, foreman and general laws clauses as written as a condition precedent to the execution of any collective bargaining agreements. But, believing the clauses illegal, the examiner concluded that by insisting that the employers agree to them the unions had refused to bargain collectively with the employers in violation of § 8(b)(3) of the Labor Management Relations Act, 1947.6 He also found that the primary object or purpose of the strikes called by the unions and their agents against the employers was to force the latter to accede to the unions' demand for inclusion of the three clauses he thought illegal and from that finding concluded that the unions had violated (8(b)(2) of the Act in that they had

<sup>&</sup>quot;It shall be an unfair labor practice for a labor organization or its agents—

<sup>&</sup>quot;(3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the previsions of section 9 (a) of this title; ..."

<sup>&</sup>quot;It shall be an unfair labor practice for a labor organization or its agents—

<sup>&</sup>quot;(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3)...," which in pertinent part provides:

<sup>&</sup>quot;It shall be an unfair labor practice for an employer-

<sup>&</sup>quot;(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization:

[fol. 522] attempted to cause the employers to encourage union membership by discrimination in regard to hire, tenure, terms or conditions of employment. As to the foreman clause, he thought they had also attempted to coerce the employers in the selection of their representatives for the purpose of adjusting grievances in violation of § 8(b). (1)(B) to be considered hereinafter.

#### The Jurisdiction Clause

The Board neither agreed nor disagreed with the trial examiner's conclusion that the unions had violated  $\S 8(b)(2)$  by striking for the inclusion of the jurisdiction clause in future collective bargaining agreements. It said in a footnote to its decision that while it agreed with the trial examiner that the unions had violated  $\S 8(b)(2)$  by striking to force the employers to accede to the unions' demands for the illegal foreman and general laws clauses, it found it "unnecessary to pass upon his finding that the Respondents violated Section 8(b)(2) by so striking also for the jurisdiction clause." Our consideration of this clause is, therefore, narrowed to the question whether by insisting upon its inclusion in the future contracts the unions refused to bargain collectively in violation of  $\S 8(b)(3)$ .

There is no dispute that in both cases the jurisdiction clauses on which the unions insisted covered not only work which the unions and the employers had regarded in the pet as composing room work, but also a number of job processes and operations which the employers had not and did not contemplate installing in their plants. In the case [fol. 523] of Worcester it also covered, as previously noted, paste-makeup work which for years had been done by artists who did not work in the composing room and who had never been included in the composing room bargaining unit."

<sup>\*</sup> Worcester offered to include a clause in the new contract to the effect that it would not introduce certain new processes during the life of the contract but the unions rejected the offer.

<sup>.9</sup> In the § 10(k) proceeding referred to earlier in this opinion the Board held that Local 165 and its agents were not lawfully entitled to force or require Worcester to assign paste-makeup work to a member of the union rather than to an employee of its own choice.

Both employers had for years recognized their composing room employees as forming appropriate units for collective bargaining purposes, but there had never been a Board determination to that effect. Nevertheless, the trial examiner, the Board concurring, had no difficulty in finding that the composing room employees of the employers in the classifications covered by the past agreements between the unions and the employers, subject to the statutory exclusion of foremen, constituted appropriate units for the purpose of collective bargaining within the meaning of 9(a) of the Act. And it was similarly found that the respective unions represented a majority of the employees in those units. But, noting that in general the Board in the past had refused to include nonexistent or future job operations in the units it considered appropriate for the purposes of collective bargaining, it was determined by the trial examiner, the Board affirming, that units including nonexistent or future job operations upon which the unions insisted in their negotiations for future contracts were inappropriate. Hence it was determined that by insisting upon bargaining only for inappropriate units the unions had not fulfilled their obligation to bargain as required by .8(b) (3) of the Act.

The Board's power to determine the units appropriate for collective bargaining is broad. "The issue as to what unit is appropriate for bargaining is one for which no absolute rule of law is laid down by statute, and none should [fol. 524] be by decision. It involves of necessity a large measure of informed discretion, and the decision of the Board, if not final, is rarely to be disturbed." Packard Co. y. Labor Board, 330 U.S. 485, 491 (1947).

The unit on which the unions insisted is not a positively illegal unit, as for instance one including supervisory employees. Moreover, we cannot doubt that in a proper proceeding the Board in the exercise of its broad power could either include or exclude future or non-existent job operations from the unit it determined appropriate for collective bargaining purposes. Thus this is not a case in which the unions are pressing for an obviously inappropriate unit. It may very well be sound policy for the Board not to include non-existent or future job classifications in the units

it determines appropriate for collective bargaining purposes. It may be wiser to wait for the benefit of experience with new processes and operations rather than to attempt to anticipate the skills that may be required to carry them out. Moreover, inclusion of future or non-existent job operations in a bargaining unit sets the stage for future proceedings under § 10(k) of the Act to settle jurisdictional disputes. Although the Board may think the unit on which the unions insisted inappropriate, it was not illegal, for a unit including future or non-existent jobs is neither unlawful per se nor obviously and clearly inappropriate.

The question is whether by insisting on the broader unit the unions in effect were refusing to bargain collectively with the employers. To paraphrase what this court said in NLRR v. Reed & Prince Mfg. Co., 205 F.2d 131, 134 (C.A. 1, 1953), the question is whether it is to be inferred from the totality of the unions' conduct that they went through the motions of negotiation as an elaborate pretense with no sincere desire to reach an agreement if possible, or that they bargained in good faith but were. [fol. 525] unable to arrive at an acceptable agreement with the employers. This question however, the Board itself answered when it adopted the trial examiner's finding that the unions were desirous of securing contracts with the employers. It may be that the unions were uncompromising in their jurisdictional demands, but under \$8(d) of the Actiquoted in footnote 12, in/ra, the obligation to bargain collectively "in good faith" does not compel either party to agree to a proposal or require the making of a concession. See Labor Board v. American Insurance Company, 343 U.S. 395 (1952). Although the unions may have insisted rather stubbornly in their demand for the jurisdiction clause, we have little difficulty, in view of the finding that they sincerely desired contracts, in concluding that the unions by their insistence on the clause did not refuse to bargain collectively as required by §8(b)(3) of the Act.

### The Foreman Clause

This clause as proposed and insisted upon by the unions provides: "The hiring, operation, authority and control

of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union. In the absence of the foreman, the foreman-in-charge shall so function.

"All orders, instruction, reprimands, etc., must be given through the foreman who shall have the right to assign men to any composing room work he deems necessary." 10

The trial examiner and the Board found that by insisting upon this clause the unions refused to bargain in good faith and that by striking in support of their insistence upon the clause the unions had undertaken to restrain or coerce. [fol. 526] the employers in the selection of their representatives for the adjustment of grievances in violation of § 8(b) (1)(B) of the Act.11 The reasoning by which the trial examiner and the Board reached this conclusion is fragmentary and far from clear. Indeed, the trial examiner's intermediate report, which the Board affirmed, consists of a lengthy recapitulation of the evidence interspersed here and there with a finding of fact followed by lengthy conclusions summarized in brief paragraphs. This technique of decision has not only rendered our consideration of this case exceedingly difficult and needlessly time consuming but has also served better to conceal than to disclose the Board's reasoning. Nevertheless, we agree with the Board's conclusions with respect to the foreman clause.

There can be no doubt that the foreman's duties necessarily included participation in the adjustment of employee grievances. Hence, by insisting that the foremen must be union members, the unions were restraining and coercing the employers in the selection of their representatives for grievance adjustment purposes. Not only would the clause

<sup>10</sup> In the Worcester case the clause contained the further provision:

<sup>&</sup>quot;The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement."

<sup>11 &</sup>quot;It shall be an unfair labor practice for a labor organization or its agents-

<sup>&</sup>quot;(1) to restrain or coerce . . . (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment or grievances; . . . "

as proposed by the unions limit the employers' choice of foremen to union members, but it would also give the unions power to force the discharge or demotion of a foreman by expelling him from the union.

It seems to us equally clear, however, that by insisting on the foreman clause as they wanted it, the unions violated §8(b)(2) of the Act quoted in material part in footnote 7, supra, for the effect of the clause would be to cause the employers to discriminate in favor of union men in appointing their foremen thereby encouraging aspirants [fol. 527] for that position to join the union. And §8(b)(2) covers all situations in which the union seeks to cause the employer to accept conditions under which any non-union employee or job applicant will be unlawfully discriminated against. NLRB v. National Maritime Union, 175 F.2d 686, 689 (C.A. 2, 1949). Thus we believe that by striking for the foreman clause the unions violated §8(b)(2) of the Act as well as §8(b)(1)(B).

And we think that in holding out for the clause the unions also refused to bargain collectively in violation of §8(B)(3). There may be cases in which uncompromising insistence upon a legal contract clause is so utterly unreasonable under the circumstances as to warrant an inference of badfaith. The problem is to reconcile the duty to "confer" in "good faith" imposed by §8(d) of the Act12 that is to say with the sincere and honest desire to reach an agreement if possible, and the right conferred in that section, perhaps even stubbornly, to refuse to agree to a proposal or to make a concession with respect to a contract clause. However, to hold that good faith is a defense to the charge of refusal to bargain when the contract provision insisted upon is illegal per se is to put a premium on ignorance of the law

<sup>12 &</sup>quot;For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession; ...."

or blind intransigency. Thus, as to this clause, the unions are not saved by the finding that they negotiated with the genuine desire to arrive at a contract.

It is true that in the Haverhill case the foreman clause was not a key issue. And it is also true that after the [fol. 528] strikes the unions withdrew their demands for the clause. But there is no assurance that their demands for inclusion of the clause will not be renewed. Since bargaining demands for, and a strike aimed at forcing an employer to accede to, the inclusion of an obviously illegal provision in a collective bargaining contract justify enforcement of a cease and desist order, see NLRB v. National Maritime Union, 175 F.2d 686, 689 (C.A. 2, 1949), we think the Board is entitled to enforcement of its order so far as this clause is concerned.

### The General Laws Clause

There can be no doubt, indeed it is not seriously disputed, that several of the provisions of ITU general laws, if literally applied, would import illegal union security provisions into any collective bargaining agreement into which they might be incorporated. The question is whether the "not in conflict with law" provision, and the provision that the contract alone shall govern relations between the parties as to all matters concerning which it makes any provision, of the proposed contract clause with respect to the inclusion of the ITU general laws serves to immunize the proposed contract from the illegality of many of the general laws of ITU.

The provision that contract terms alone shall govern with respect to all matters as to which it makes any provision does not call for extended consideration, for it is clear that the local unions would not, and indeed could not, under ITU rules and regulations, enter into any collective bargaining agreement without ITU approval, and ITU's insistence that "Union language must be taken" with respect to its general laws demonstrates that ITU would not approve any contract provision substantially in conflict with its laws. The "not in conflict with law" provision or

[fol. 529] savings clause, as it is sometimes referred to,

requires more lengthy discussion.13

The United States Court of Appeals for the Second Circuit has answered in the negative the question of the immunizing effect of a not in conflict with law provision comparable to the one in the case at bar. In Red Star Express Lines v. NLRB, 196 F.2d 78, 81 (C.A. 2, 1952), that court, oper Judge A. N. Hand, Judge L. Hand dissenting, took the view that the question was not merely whether under principles of contract aw a "savings clause" addendum toa contract containing an illegal union security clause would contractually negative that clause. It took the view that the question was more whether the savings clause would have the effect of preventing the coercion which would otherwise follow from inclusion of the illegal clause in the contract." As to the effect of the savings clause, the court accorded weight to the view of the Board. It noted that entering into a contract containing an illegal union security clause would constitute an unfair labor practice because the existence of such an agreement without more (whether enforced or not), would tend to encourage union membership. The court then said that the Act required that employees should be free to choose between joining and refusing to join a union and forbad any form of interference with that choice, and from this concluded that a contract containing of an illegal union security clause, even though modified by an addendum in the form of a provision excluding whatever contract clauses might be illegal, would not eliminate the coercive effect of the contract. "For," the court said, "the [fol. 530] question is not only whether under principles of contract law the addendum would contractually negative the illegal union security clauses, but whether it would have

<sup>&</sup>lt;sup>13</sup> The unions insist that in this case the clause should be called an "exclusionary clause." We see no significant difference in the terminology to be employed. We are not deciding this case on an issue of semantics.

<sup>14</sup> We perceive no reason why the coercive effect of the illegal clauses would be lessened if, as in this case, they are incorporated by reference into the contract, rather than written into the contract itself.

the effect of preventing the coercion that would otherwise follow" from the inclusion of such clauses in the body of the contract. The court then said: "The Board found it would not have such an effect because it fails to specify which, if any, clauses were to be suspended.' In our opinion the Board was entitled to adopt this view as a matter of sound policy and reasonable interpretation. The vague language of the addendum would not help the ordinary employee to understand that the union security clause was no longer binding." As explained in NLRB v. Gaunor News Co., 197 F.2d 719, 723, 724 (C.A. 2, 1952), the court's reasoning-in the Red Star Express Lines case was "that an employee cannot be expected to predict the validity or invalidity of particular clauses in the contract, and will feel compelled to join the union where a union-security clause of questionable validity exists, if only as a hedging device against a possible future upholding of the clause." In accord see NLRB v. Gottfried Baking Co., 210 F.2d 772, 780 (C.A. 2, 1954).

The question is not free from doubt. Nevertheless, in spite of perhaps some inferences to the contrary to be drawn from *Honolulu Star-Bulletin*, *Ltd*: v. *NLRB*, 274 F.2d 567 (C.A. D.C. 1959), we agree with both the reasoning and the result of the cases from the Court of Appeals for the Second Circuit cited above.

The question now arises whether a union is to be found guilty of unfair labor practices when it bargains for and strikes to coerce an employer to consent to the inclusion in a collective bargaining agreement of clauses of honestly disputable validity at the time of the union action. We think this question must be answered in the affirmative.

It is true that the legality or illegality of the unions' [fol. 531] conduct at the bargaining conferences and in calling the strikes, so far as the General Laws clause is concerned, can only be determined by subsequent action by the Board followed by proceedings in a court of appeals or perhaps in the Supreme Court of the United States. But, as this court pointed out in a comparable situation in NLRB v. Local 404, etc., 205 F.2d 99, 102, 103 (C.A. 1, 1953), "this in itself presents no unique situation." The point in that case as in this is simply that the unions were acting

at their peril, that is to say, at the risk of an enforcement order, when they sought to compel the employers to submit to their demand for inclusion of the ITU general laws in the collective bargaining contracts under negotiation.

ITU's contention that it is not a proper party to this proceeding, and so that the Board erred in finding that it had committed any unfair labor practices, deserves only brief consideration. There can be no doubt whatever that officers of ITU actively participated with officers of the local unions in regotiating for contracts with both Haverhill and Worcester. Nor can there be any doubt that under ITU rules and regulations any contracts negotiated by the local unions had to be submitted to and approved by an agency of ITU. Furthermore, the evidence is clear that in both cases the stokes were sanctioned and approved by high officers of ITU. We think it clear that under these circumstances ITU, and in the Worcester case its Executive Council, were proper parties to this proceeding and were properly charge. able with the unfair labor practices found to have been committed by the locals. See American Newspaper Publishers Ass'n v. NLRB. 193 F.2d 782, 804, 805 (C.A. 7, 1951), cert, denied on this point 344 U.S. 812 (1951).

The order entered by the Board, in effect, requires both respondents to cease and desist from engaging in action with respect to Haverhill and Worcester that would violate sections 8(b)(1)(B), 8(b)(2), and 8(b)(3) of the Act in [fol. 532] any manner: See Communications Workers etc. et al. v. N.L.R.B., decided by the Supreme Court of the United States May 2, 1960. We consider this order to be excessively broad. It is true that this court upheld an order forbidding a union to engage in certain conduct with respect to any other employer. NLRB v. Springfield Building & Const. Trades Council, 262 F.2d 494 (C.A. 1, 1958). In that case, however, the unions were told what the proscribed conduct was. As the Board's order now stands any alleged violation of the aforementioned sections would be tried in this court in the first instance in a contempt proceeding, no matter how unrelated it may be to the earlier illegal activity engaged in by the union: And, "the authority conferred on the Board to restrain the practice which it has found the employer (union) to have committed is not an authority

to restrain generally all other unlawful practices which it has neither found to have been pursued nor persuasively to be related to the proven unlawful conduct." Labor Board v. Express Publishing Co., 312 U.S. 426, 433 (1941). Accordingly, we restrict the Board's order to the specific practices found to be 'unlawful, or practices persuasively related thereto.

A decree will be entered enforcing the Order of the Board as modified in accordance with this opinion.

[fol. 533]

### IN UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

DECREE--May 10, 1960

This cause came on to be heard upon the petitions for review and cross-petitions for enforcement of an order of the National Labor Relations Board, and was argued by counsel.

Upon consideration whereof, It is now, to wit, May 10, 1960, here ordered, adjudged and decreed as follows: The order of the National Labor Relations Board of April 17, 1959, as modified herein, is hereby affirmed and enforced.

It is ordered that in each of the paragraphs in said order marked I(a)(1) and H(a)(1) the word "jurisdiction" be stricken, and that the words "persuasively related" be substituted for the word "other".

It is further ordered that in each of the paragraphs in said order marked I(a)(3) and II(a)(3) the words "persuasively related" be substituted for the word "other".

It is further ordered that paragraphs I(a)(4) and II(a) (4) in said order be stricken in their entireties and that the following paragraphs be substituted respectively therefor:

[fol. 535] I... (a) ... "(4) Restraining or coercing Haverhill Gazette Company in the selection of its representatives for the purpose of collective bargaining or the adjustment of grievances by insistence upon acceptance of the Respondent Unions' foreman clause or in any persuasively related manner." II... (a) \$\mathbb{R}\$. "(4) Restraining or coercing Worcester Telegram Publishing Company, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances by insistence upon acceptance of the Respondent Unions' foreman clause or in any persuasively related manner."

It is further ordered that the words "persuasively related," be substituted for the word "other" in the next to the last indented paragraph in each of the two notices appended to said order.

It is further ordered that the following paragraph be substituted for the last indented paragraph in the first notice appended to said order:

"We Will Not restrain or coerce Haverhill Gazette Company in the selection of its representatives for the purpose of collective bargaining or the adjustment of grievances by insistence upon acceptance of a clause requiring that the composing room foreman be a union member or in any persuasively related manner."

It is further ordered that the following paragraph be substituted for the last indented paragraph in the second notice appended to said order:

[fol. 537] "We Will Not restrain or coerce Worcester Telegram Publishing Company, Inc., in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances by insistence upon acceptance of a clause requiring that the composing room foreman be a union member or in any persuasively related manner."

It is still further ordered that the respondents herein notify the Regional Director for the First Region in writing within fifteen (15) days of this Decree of the steps they have taken respectively to comply with said order as herein modified, and affirmed and enforced.

By the Court:

Roger A. Stinchfield, Clerk.

Approved:

Peter Woodbury, Ch. J.

Thereafter, on June 3, 1960, petitioners in both cases filed a petition for rehearing.

Thereafter, on June 10, 1960, an order was entered in these two cases denying the petition for rehearing.

[fol. 539] Thereafter, on June 15, 1960, the decree in these two cases was stayed until further order of Court.

Clerk's Certificate to foregoing transcript (omitted in printing).

[fel. 540].

Supreme Court of the United States
No. 340, October Term, 1960

International Typographical Union, AFL-CIO, et al., Petitioners,

VS.

NATIONAL LABOR RELATIONS BOARD.

ORDER ALLOWING CERTIORARI-November 7, 1960

The petition herein for a writ of certiorari to the United States Court of Appeals for the First Circuit is granted. The case is transferred to the summary calendar and set for argument immediately following No. 339.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition half be treated as though filed in response to such writ.

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### IN THE

## Supreme Court of the United States

OCTOBER TERM, 1960

No.

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, HAVERHILL TYPOGRAPHICAL UNION No. 38, Worcester Typographical Union No. 165, Petitioners,

NATIONAL LABOR RELATIONS BOARD, Respondent

# PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Petitioners International Typographical Union and its Local Unions Nos. 38 and 165 jointly pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the First Circuit, entered in the above entitled cases on May 10, 1960.

### CITATION TO OPINIONS BELOW

The opinion of the Court of Appeals for the First Circuit is reported at 278 F. 2d 6, and is reprinted in Appendix "A" pp. 1a-16a infra. The Decision and Order of the National Labor Relations Board is reported at 123 NLRB 806.

#### JURISDICTION

The decree of the Court of Appeals was entered on May 10, 1960. A petition for rehearing filed by petitioners was denied on June 10, 1960. On June 15, 1960, the decree of the Court was stayed to allow the filing of this petition for certiorari. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

#### **QUESTIONS PRESENTED**

1. Whether a contractual proposal by a union that,

"The General Laws of the International Typographical Union, in effect at the time of the execution of this agreement, not in conflict with federal or state law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract,"

and a strike to secure agreement on such proposal, violates Section 8(b) of the National Labor Relations Act, as amended (61 Stat. 136; 29 U.S.C., Sec. 151 et seq.)

2. Whether contractual proposals by a union that,

"The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union... The Union shall not discipline the Foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement,"

and a strike to secure agreement on such proposals, violates Section 8(b) of the Act.

If this Court should sustain the decision of the Court below on these issues, the case then will also present the questions (a) whether the Board's Order, as enforced by the Court, is sufficiently narrow

### STATUTES INVOLVED

The case involves Sections 2(3), 2(11), 8(b)(1), 8(b)(2), 8(b)(3), 8(d), 13 and 14(a) of the National Labor Relations Act as amended. They are printed as Appendix "B" to this petition (pp. 44a-45a)?

### STATEMENT OF THE CASE

On separate charges filed by the Haverhill Gazette Company, Haverhill, Massachusetts, against Haverhill Typographical Union Local No. 38 and the International Typographical Union (herein "ITU"), and by Worcester Telegram Publishing Company, Inc., Worcester, Massachusetts, against Worcester Typographical Union Local No. 165, and the ITU, a consolidated hearing was held which, after the usual proceedings, resulted in the order of the National Labor Belations Board of April 17, 1959, of which review was sought below. This petition seeks review of such portions of the judgment below as upheld the Board.

For many years, the named locals had represented the composing room employees of the charging employers. After separate fruitless negotiations for agreements, extending over long periods of time, these employees went on strike in November, 1957. While the parties were apart on a great many issues, including wages, the most important here were the "laws clause" (JA 351, 398) and the foreman clauses (JA 349, 397) set forth above under "Questions Presented". Additionally, the Board found that the strike for a

and specific within the rule of NLRB v. Express Publishing Co., 312 U.S. 426 (1941) and (b) whether the International Typographical Union can be held responsible within the rule of United Mine Workers v. Coronado Coal Co., 259 U.S. 344, 393-96. (1922). We reserve these questions to our brief on the merits if this petition is granted.

jurisdiction clause, and the apprenticeship and priority provisions of the agreement, violated Section 8(b) (JA 444-449, 481), but these findings were not approved by the Court below.

The Board found that the "General Laws" clause was unlawful on the theory that "there is no evidence in the record remotely suggesting that the Respondents were not seeking to incorporate all the general laws, including those found unlawful herein, in the proposed contracts" (JA 455), and that the clause was not "saved" by the "not in conflict with law" provision because a "'savings clause' of this general character is ineffective to eliminate the illegal provisions of the general laws" (JA 455), relying on certain decisions of the Court of Appeals for the Second Circuit epitomized by NLRB v. Red Star Express Lines, 196 F. 2d 78 (1952). The Court below, while conceding that "The question is not free from doubt" and that "some inferences to the contrary" might be drawn from the opinion of the Court of Appeals for the District of Columbia in Honolulu Star-Bulletin v. NLRB, 274 F. 2d 567 (1959), adopted the Board's reasoning, also relying on the Red Star Express line of decisions. (App. 12a-14a).

The Board held that the foreman clauses violated Section 8(b)(1)(B) on the ground that a strike for these clauses was an effort to "restrain and coerce" the employers in the selection of their representatives for the adjustment of grievances (JA 449); and violated Section 8(b)(2) on the ground that "where employers entrust their hiring to foremen who are members of the union and bound by its laws, they in effect agree with the union . . . to operate under a closed shop agreement" (JA 449). The Court below, while noting that the findings of the Board were "fragmentary and far

from clear", (App. 9a) sustained these holdings, but on an entirely different ground; i.e., that "the effect of the clause would be to cause the employer to discriminate in favor of union men in appointing their foremen, thereby encouraging aspirants for that position to join the union". (App. 10a).

The Trial Examiner found, and neither the Board nor the Court disturbed the finding, that "... the Respondents . ... were desirous of securing contracts with the companies" (JA 456). The Board nonetheless found that the petitioners had refused to bargain collectively in good faith by striking in these circumstances, (JA 455-456), and that they had thereby violated Section 8(b)(3). . The Court below, describing the union demands as "clauses of honestly disputable. validity at the time of the union action" (App. 14a), held that the unions "were acting at their peril" (id.) and sustained the Board in finding an illegal refusal to bargain. The Court also sustained the finding of the Board that the ITU was jointly responsible with its local unions, and in certain respects limited the Board's order.

### REASONS FOR GRANTING THE WRIT

### I. The Importance of the Questions Presented

This case presents important problems in the interpretation and administration of the National Labor Relations Act. It presents the issue whether the rules of a union, insofar as they are "not in conflict with federal or state law," may govern working conditions not covered by a collective agreement. This, in turn, raises the question whether the Board and the courts, by describing this language as words of "incorporation by reference" rather than "exclusion" may use this technique to police proposals made in the course of negotiations. On this issue there is a square conflict

between the Court below, and the Courts of Appeals for the District of Columbia and Second Circuits.

It also presents the issue whether unions may lawfully demand, and strike for, a contractual commitment that foremen be union members. This is a matter of importance in the printing, maritime, building construction and other industries where foremen have traditionally been union members. On this issue there is likewise a square conflict between the Court below, and the Courts of Appeals for the District of Columbia and Second Circuits.

Underlying these issues is the basic question whether the Board and the courts are authorized to declare discrete and isolated proposals made in the course of collective bargaining, before any agreement has been reached, and strikes in support thereof, unlawful; contrary, we believe, to the decision of this Court in NLRB v. American National Insurance Co., 343 U.S. 395 (1952) and the line of authority stemming therefrom.

<sup>&</sup>lt;sup>2</sup> The case also deals with issues which have been the subject of litigation since passage of the Taft-Hartley Act in 1947 and which should be put definitively to rest. Contracts in all respects identical to those herein involved were before the Board in Matter, of International Typographical Union, 86 NLRB 951 (1949); before the Seventh Circuit in NLRB v. International Typographical Union, 193 F. 2d 782 (1951), cert. den. 344 U.S. 816; and before the Distriet Court for Northern Indiana in Evans v. ITU, 81 F. Supp. 675 (1948), where they were specifically found to be not unlawful, a finding from which the Board took no appeal. Additionally, they were the subject of charges filed by the American Newspaper Publishers Association in Case No. 9-CB-74, which were dismissed administratively without hearing in April, 1955. The decree entered in NLRB v. ITU, supra, broadly enjoined any violations of Sections 8(b)(1)(B), 8(b)(2) and 8(b)(3); no contempt action has ever been brought under it. As recently as 1957, the Board took no issue with a Trial Examiner's report finding these contract

Agreements in the form proposed by these petitioners are the custom and practice in the industry, and the Board's efforts to stigmatize them as illegal have seriously interfered with collective bargaining. This is particularly true because of the Board's efforts to apply the in terrorest Brown-Olds' remedy to parties entering into them. Matter of News Syndicate. 122 NLRB 818, 827; Matter of Honolulu Star-Bulletin, 123 NLRB 395, 408. Employers are understandably reluctant to enter into agreements under which, to cite News Syndicate as an example, they may be penalized to the extent of some four hundred thousand dollars. Because the Board has required the ITU to litigate and relitigate this issue, despite this proceeding and Honolulu Star-Bulletin and News Syndicate, several cases now at lower levels await decision in this case.4 Moreover; the Board has invalidated, on the same theory it

clauses to be lawful, Kansas City Star, 119 NLRB 972, 986, fn. 12 (1957). For a period of some twelve years, these practices have been followed with the full knowledge of the Board, without objection until the present cases, thus raising the issue of the appropriate weight to be given this settled administrative practice under the rule of Norwegian Nitrogen Products v. U.S., 288 U.S. 294, 315 (1933) and U.S. v. Leslic Salt Co., 350 U.S. 383, 396 (1956).

<sup>&</sup>lt;sup>3</sup> United Association of Journeymen, etc. Local 231, et al., 115 NLRB 594 (1956). This question is before this Court in Local 60, Carpenters v. NLRB, No. 68, October Term, 1960 and NLRB v. Local 357, Teamsters, No. 85, cert. granted June 27, 1960, 363 U.S. 837.

<sup>\*</sup>Los Angeles Mailers Union # 9 and Hillbro Newspaper Printing Co. v. NLRB (pet. for review pending in CADC Nos. 15721 and 15770); New York Times and New York Mailers Union # 6, 2-CA-6432, 2-CA-6433, 2-CB-2504; Newspaper Agency Corp. and Salt Lake City Mailers Union # 21, 20-CA-1556, 20-CB-658; Tribune Publishing Co. and San Francisco-Oakland Mailers Union # 18, 20-CA-1553 and 20-CB-657.

applied to the "laws" clause, contracts in industries as diverse as mining, music and shipping.

#### II. The Conflict With Honolulu Star-Bulletin and News Syndicate

In Honolulu Star-Bulletin v. NLRB, 274 F. 2d 567 (November 25, 1959), the Court of Appeals for the District of Columbia, and in NLRB v. News Syndicate Co. Inc., et al., — F. 2d — (May 20, 1960), the Court of Appeals for the Second Circuit, had before them clauses substantially identical to those before the Court below, and in each case unanimously found them to be lawful. We set forth in tabular form the contract language in each case:

Honolulu (App. 19a)

Section 24 (c). It is understood and agreed that the general laws of the International Typographical Union in effect January 1, 1956, not in conflict with federal and territorial (state) law, shalf govern relations between the parties on conditions not specifically enumerated herein.

Neurs Syndicate (App. 28a)

Section 24. It is understood and agreed that the General Laws of the International Typographical Union, in effect January 1, 1955, not in conflict with this contract or with federal or state law, shall govern relations between the parties on conditions not specifically enumerated herein.

Worcester (JA 351)8

Article I, Section 7. T General Laws of the Intertional Typographical Uniin federat at the time of t execution of this agreeme not in conflict with federal or state law, shall gove relations between the partion those subjects concerniwhich no provision is main this contract:

<sup>&</sup>lt;sup>8</sup> Perry Coal Co., 125 NLRB # 110, 45 LRRM 1251 (1959) refusing to follow Lewis v. Quality Coal Co., 270 F. 2d 140 (CA 7, 1959) cert. denied, 361 U.S. 929 (1960). This case is now pending on petition for review in CA 7, Nos. 12889 and 12915.

<sup>&</sup>lt;sup>6</sup> Cavendish Record Mfg. Co., 124 NLRB # 166, 44 LRRM 1622 (1959); Columbia Broadcasting System, 21-RC-5709, decided Dec. 29, 1959 (unpublished).

<sup>&</sup>lt;sup>7</sup> Longshoremen's Union, 127 NLRB # 9, 45 LRRM 1501 (1906).

<sup>&</sup>lt;sup>8</sup> The identical language was in the Haverhill proposal, Art. I § 8, except that the laws effective January 1, 1956 were expressly referred to. (JA 398). See App. 4a-5a.

Hadala (123 NLRB 395,

section 18: Foreman: The foreman is the only recognized authority in carrying at the instructions of the Employer in the composing rea.

No specific requirement that the foreman be a union number, but found by the Board to be required by Art. Ser. 10 of the General law. See 123 NLRB 395, 402.)

News Syndicate (122 NLRB 818; at 835)

Section 4: Superintendents and Foremen and Assistant Foremen shall be appointed and may be removed by the Publishers, and shall be members of New York Mailers' Union No. 6.

Section 20 (a). The operation, authority and control of each mail room shall be vested exclusively in the office through its representative, the Foreman.

Section 20 (c). The union shall not discipline the Foreman for earrying out the instructions of the publisher or his representative in accordance with this agreeWorcester (JA 349)9

Art. I, Section 5. The operation authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the union. The union shall not discipline the foreman for carrying out written instructions of the publishers or his representatives authorized by this Agreement.

Though Honolulu Star-Bulletin was decided well before the instant case, the Government did not seek certiorari. News Syndicate was decided after this case. That opinion was presented to the Court below by petition for rehearing, which was summarily denied with no statement of reasons. The opinions in both cases are appended to this petition, (App. pp. 17a-43a) and they are in direct and irreconcilable conflict with the decision below.

### a. The "Laws" Clause

In all of these cases it has not been disputed that certain of the ITU General Laws, which antedate the passage of the Taft-Hartley Act, contemplated closed-shop conditions. The ITU has urged that these laws have a valid scope of operation in enterprises not affecting interstate commerce within the rule of NLRB v. Fainblatt, 306 U.S. 601 (1939), and in Canada where the ITU has many subordinate unions and where the Taft-Hartley Act has no application. It is not dis-

The identical language was in the Haverhill proposal. (JA 397) See App. 4a:

puted that the language "not in conflict with law" was inserted in the laws clause after passage of the Taft-Hartley Act (JA 274, 280); Matter of ITU, 86 NLRB 951, 1003 (1949). The manifest purpose of the language was to exclude from agreements any General Laws in circumstances which would entail a violation of Federal or State law. Nonetheless, the Board, by the use of a Pickwickian logic, has persisted in speaking of this as "incorporation by reference."

The Court of Appeals for the District of Columbia in *Honolulu* had little problem with the matter. It noted (App. 19a) that

"Section 24 (c) [the "laws clause"] as shown by the above quotation, clearly provided that the General Laws of the Union in conflict with either federal law or the contract itself were not included in the contract. A closed shop provision would have been in conflict with the federal law and also in conflict with Section 2 (a) of the contract. Any such provision in the General Laws was excepted from inclusion in the contract. We do not see how language could have been clearer."

Judge Prettyman for the Court described the Board's reading (App. 21a) as

"... a complete non sequitur. An erroneous impression of plain terms does not change the meaning of those terms ... assumptions that employees will not understand a lawful contract cannot be the basis for holding the contract illegal. What would be the justification for emphatic insistence upon formal collective bargaining as to terms of employment, if the conduct of the parties is to be judged by speculative, uninformed impressions of those terms instead of by the terms themselves as hammered out at the negotiation table?"

The Court expressly held the *Red Star* line of cases inapplicable to a contract lawful on its face, as this one is. (App. 19a, fn. 2). The Court pointedly inquired (App. 22a) "What could be more confusing to rank-and-file employees than an official ruling that a contract which says they need not be members means that they must be members?"

Judge Hincks for the Second Circuit, in News Syndicate, enthusiastically followed the opinion in Honolulu, and commented (App. 27a) that "Because of our ' substantial agreement with the penetrating and sound conclusion of that Court, we shall have less to say on this aspect of the instant controversy than if the argument had not already had such authoritative judicial consideration". He observed that the agreement "did not purport to incorporate illegal provisions of the General Laws, but only those which were 'not in conflict . . . with federal or state law"". 30a-31a). He said of the Honolulu opinion that "Its real thrust was its rejection of the same incorporation by reference argument here urged" (App. 31a, fn. 10), and on this ground followed the District of Columbia Circuit in holding that the Red Star line of cases had no application (App. 30a-31a). We are informed that the Government will seek certiorari in News Syndicate.

The Court below reached a directly contrary result. It first sought to avoid the problem altogether by dismissing it as "an issue of semantics" (App. 12a, fn. 13). But an essential question of contract interpretation is not a logomachy or play on words, the sense in which the Court apparently intends the word "semantics". In any event, it adopted the Board's reasoning in stating (App. 13a, fn. 14) that

"We perceive no reason why the coercive effect of the illegal clauses would be lessened if, as in this case, they are incorporated by reference into the contract, rather than written into the contract itself." (emphasis supplied). It expressly held Red Star to be applicable and expressly refused to follow Honolulu Star Bulletin. (App. 14a).

The Sixth Circuit in Fentress Coal & Coke Co. v. Lewis, 264 F. 2d 134, 136, (CA 6, 1959), and the Seventh Circuit in Lewis v. Quality Coal Corp., 270 F. 2d 140, 143, (CA 7, 1959), cert. den. 361 U.S. 929, (1960) on which the Second Circuit relied (App. 30a), have additionally held that the Red Star line of decisions has no application to contracts in the coal mining industry similar to those herein involved.

Important democratic values are involved in this issue. 10 Moreover, in no case, including this, has it been

<sup>10</sup> The ITU has been consistently pointed to as the most demoeratic of American trade unions. Lipset, Trow and Coleman, Union Democracy 3-4, (1956); Magrath, Democracy in Overalls, 12 Industrial and Labor Relations Review 501, 511-515 (July 1959); Bromwich, Union Constitutions, A Report to the Fund for the Republic, July, 1959, p. 39. The General Laws are the device by which the membership through convention action or referendum vote can exercise a direct voice in determining conditions of labor. We conceive that members should have the freedom to adopt such laws as they choose without Government supervision and that the slight chance that this may result in a violation of civil law should not override the freedom to make even wrong choices. The origin and function of the General Laws are well discussed in Matter of ITU, 86 NLRB 951, 970. Actually, there has been little problem; no charge alleging discrimination was even filed against any local union of the ITU until 1955 in Matter of Kansas City Star Co., 119 NLRB 972, in which two Board members dissented, and the findings of discrimination sustained in Honolulu Star-Bulletin and News Syndicate were at once so trivial and doubtful that the Courts of Appeals adopted the unusual practice of

alleged, or proven, that such agreements were proposed or entered into with the intent that they be illegally applied. The Board, by a patent mis-reading of unambiguous language, has thus sought to use the "laws clause" as a device to police contract language which a Union may propose in the course of collective bargaining."

#### b. The Foreman Clauses

The Board held, and the Court below sustained the holding (App. 9a-11a) that the demand for the foreman clauses violated Sections 8(b)(1)(B), 8(b)(2) and 8(b)(3) of the Act. Preliminarily, the Court below noted that the reasoning of the Board is "fragmentary and far from clear" (App. 9a). Under the well-settled rule of Securities & Exchange Commission v. Chenery Corp., 332 U.S. 194, 196-7 (1947); 318 U.S. 80, 93-95

remanding to the Board rather than enforcing them. (App. 25a; 43a). The Board has never made the slightest effort to show that the contract clauses here proposed had, over the period of more than a decade that they have been in use, the grue-ome consequences with which the Board hypothetically invests them. To the contrary, Honolula Star-Bulletin and News Syndicate both demonstrate that these agreements can be, and have been, applied non-discriminatorily, (App. 20a: 37a-42a).

11 The "General Laws" have a dual aspect. In one respect, they are work rules, covering relationships with employers. In another, they are membership rules, setting forth, the minimum conditions under which the members agree among themselves to sell their labor. To the extent that they are membership rules, we feel that they fall within the protection of the proviso to Section 8(b)(1)(A) that "this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein". See, e.g., Legislative History of the Labor Management Relations Act, pp. 1139-43 (Gov't Print. 1948); International Association of Machinists v. Gonzales, 356 U.S. 617, 620 (1958); Matter of ITU, 86 NLRB 951, 955-57, aff'd. 193 F. 2d 782, 800 (CA 7, 1951); NLRB v. Amalgamated Local 286, etc., 222 F. 2d 95, 98 (CA 7, 1955).

(1943) and U.S. v. Chicago, M., St. P. and P.R. Co., 294 U.S. 499, 511, (1935) this called for a remand to the Board for clarification, as was pointed out to the Court on petition for rehearing.

Substantively, the holding, and the reasoning supporting it, are directly in conflict with *Honolulu Star-Bulletin* and *News Syndicate*. In *Honolulu*, the Court said, (App. 20a)

"The Board presents two contentions in support of its view. The first is that since the foreman was a Union man it must be assumed that he would be guided in his hiring by the Rules of the Union rather than by the contract between his employer and the Union . . . a similar argument was made to this Court in Carpenters District Council v. NLRB<sup>12</sup> and was rejected."

In News Syndicate, the Court adopted similar reasoning. It said (App. 35a),

"By these provisions [of the agreement] the parties clearly indicated that the foremen are solely the employers' agents and that they are under an obligation to act in accordance with the agreement, in spite of union ties and obligations which otherwise might control." (citing cases). (emphasis in original)

The Court below adopted reasoning in support of the Board's conclusion not advanced by the Board and on which no findings were made.<sup>18</sup> It stated (App. 10a).

<sup>12 274</sup> F. 2d 564 (CADC, 1959). There the Court held that since the foreman was the agent of the employer, and not of the Union. the Board's assumption was unwarranted.

<sup>13</sup> As the Court below noted (App. 11a), "in the Haverhill case the foreman clause was not a key issue". The Trial Examiner found (and the finding has not been challenged) that the position

"Not only would the clause as proposed by the unions limit the employers' choice of foremen to union members, but it would also give the unions power to force the discharge or demotion of a foreman by expelling him from the union."

But the clause stated that "The operation, authority, hiring for and control of each composing room shall be vested in the office through its representative, the foreman . . . ". (emphasis supplied). The clause did not seek to impair in any way the employer's right to select whomever it wished as foreman, subject to the requirement that he be or become a member of the union. The issue is therefore whether, under Section 8(b)(1) (B), a union may properly impose a condition (in this case, union membership) upon the person selected. In NLRB v. Garment Workers Union, 274 F. 2d 376 (CA 3, 1960), the Court held that the imposition of such a condition (in that case, that the employer's representative not have been previously employed by the ". Union) did not violate Section 8(b)(1)(B). NLRB v. Kentucky Utilities, 182 F. 2d 810 (CA 6, 1950)

The second ground of the Court's holding is flatly contradicted by the language of the proposal itself; i.e., that "The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this agreement", as

of the Company negotiators at Worcester was that "the Company had no objection to his (the foreman) being a Union member, but could not agree to make Union membership mandatory" (JA 432). Since both Companies already had Union foremen (JA 36, 170), there was thus no dispute as to who the foreman should be, and hence it cannot properly be claimed that the petitioners, by these contract demands, were seeking to influence (let alone "restrain or oerce") the employers in their "selection" of a representative.

the Second Circuit noted in News Syndicate (App. 35a).

The Board's finding that the clause was illegal rested on its assumption (JA 449) that "where employers entrust their hiring to foremen who are members of the union and bound by its laws, they in effect agree with the union . . . to operate under a closed shop agreement". In our view, an agreement either provides for a closed shop, or it does not, and analysis is not assisted by slippery elisions such as "in effect". The Court below tacitly, and both the District of Columbia and Second Circuits explicitly, rejected this ground of decision (App. 35a)."

In adopting Section 8(b) (1) (B), Congress was primarily concerned with union demands for industry-wide bargaining. See Legislative History, supra, n. 11, p. 1012 (remarks of Senator Taft), p. 1077 (remarks of Senator Ellender) and p. 1339 (remarks of Senator Thomas). Secondarily, it was concerned with union demands that "We do not like Foreman Jones, and therefore you have to fire him or we will not go to work" (id. at page 1012). Congress did not intend to limit the right to strike under Section 13 of the Act (See NLRB v. Drivers Local Union, 362 U.S. 274

<sup>14</sup> The legislative history of the Act demonstrates that the Congress had no wish to change accepted practices in the building maritime, printing, and other industries with respect to the duties and union membership of foremen. Senate Rpt. 105, 80th Cong., Ast Sess., on S. 1126, pp. 5, 19 in Legislative History, supra, pp. 411, 425. See also id. pp. 501-2, and 1008. The legitimate economic reasons for seeking provisions requiring foreman in the printing industry to be union members are developed in the record (JA 272-292, 299). See also, Judgé Hincks' opinion in News Syndicate App. 35a-36a) and Judge Swygert's opinion in Evans v. ITU, 81 F. Supp. 675 at 685 (N.D. Ind., 1948).

(1960); NLRB v. Insurance Agents, 361 U.S. 477 (1960)) for a clause requiring foremen to be union members, a clause which it expressly made lawful under Sections 2(3) and (11) and 14(a) of the Act.

If there was any ambiguity in the foreman proposals. as we feel there is not, the proposed contract provided full machinery for arbitrating "all disputes which may arise as to the construction to be placed upon any clause of the Agreement" (JA 353). It was error for the Board and the Court to undertake to interpret the meaning of these discrete clauses of the proposal, before any complete agreement had been reached. before it had been applied, and before the parties, through the contract machinery or otherwise, had had an opportunity to interpret it. The Court's interpretation is entirely gratuitous, and is unsupported by any record evidence or Board findings. The decision in American Newspaper Publishers Association v. NLRB, 193 F. 2d 782, 805 (CA 7, 1951) cert. den., 344 U.S. 816, (1952) was expressly rested on findings that the foreman proposals were part of a "general scheme" to achieve closed shop conditions. Such findings are completely lacking here.

The Board further found (JA 481, n. 2) and the Court enforced its holding (App. 10a) that the demand for these clauses violated Section 8(b)(2) of the Act. The Court failed entirely to deal with petitioners' argument that a proposal, made in the course of collective bargaining negotiations, cannot be said to be an "attempt" to cause discrimination, before an entire agreement has been reached, a point lightly adumbrated, but not decided, in NLRB v. American National

Insurance Co., 343 U.S. 395, 405, fn. 15 (1952). It held that "the effect of the clause would be to cause the emplovers to discriminate in favor of union men in appointing their foremen, thereby encouraging aspirants for that position to join the union" (App. 10a). This ground was not advanced by the Board (see JA 457-458) and it was improper for the Court to substitute its own rationale. Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, 196 (1947); 318 U.S. 80, 93-95 (1943) Indeed, the wisdom of the Chenery rule is sharply illustrated by this very case for, as was pointed out to the Court by petition for rehearing, the ground adopted by it appears to have been rejected by the Board itself. F. H. McGraw & Co., 99 NLRB 695, 696 (1952); Pacific Shipowners' Association, 98 NLRB 582, 596 (1952).

As the Court of Appeals noted in News Syndicate (App. 36a), any employer "is of course entitled to employ only Union foremen, if it so desires. Section 2(3) & (11), 14(a) of the Act." The demand for this clause could not violate Section 8(b)(2), and it is quite irrelevant that this "might encourage aspirants for that position to join the union" since Section 8(a)(3) "does not outlaw all encouragement or discouragement of membership in labor organizations; only such as is accomplished by discrimination is forbidden." Radio Officers v. NLRB, 347 U.S. 17, 42-43 (1954).

### c. The "Refusal to Bargain"

The Trial Examiner found (JA 456), and the Board and the Court below did not disturb the finding, that "... the Respondents were desirous of securing contracts with the companies". The finding that the petitioners had refused to bargain collectively in good

faith, as required by Section 8(d) of the Act, rests solely on the asserted illegality of the two clauses. If they are lawful, this finding must also fall.

The Court below characterized these demands as "clauses of honestly disputable validity at the time of the union action." (App. 14a). It nonetheless held that "the unions were acting at their peril," (id.), that to hold otherwise would "put a premium on ignorance of the law or blind intransigency" (App. 11a), and sustained the finding of a want of good faith.

We suggest the problem is more difficult than indicated by the Court below, as illustrated by this very case. The complaints herein (JA 5, 15) attacked the contract proposals, and the General Laws, dealing with "unfair goods". The petitioners defended them. While the case was in fitigation, this Court, in Local 1976, Carpenters v. NLRB, 357 U.S. 93, 101-104 (1958) recited at length the vacillations and changes of position of the Board on the legality of such clauses, and held them to be lawful. Id. at 108. This attack was thereupon quietly dropped. Had this Court's decision gone the other way, the Board would doubtless insist that the petitioners had shown a lack of "good faith" in not properly anticipating this Court's ruling.

Does an admittedly honest dispute about the legality of proposed contract clauses show a want of good faith? May the Board and the courts use such a dispute as a device to find bad faith, before an entire agreement has been reached, where there remains the possibility that those proposals may be varied or modified, or their reach and meaning altered by other contractual provisions?

As labor law becomes ever more complex, and as the Labor Board constantly seeks to expand the reach of its jurisdiction over these matters in an increasingly vacillating fashion, we suggest that it is in the national interest that parties be granted the same freedom to negotiate concerning the legality of proposals as they have on other issues. Though this important question was expressly "put aside" in NLRB v. American National Insurance Co., 343 U.S. 395, 405, fn. 15 (1952), that case is the Board's chief reliance here (JA 456).

### CONCLUSION

The issue here was succinctly summarized by an attorney for the Board in yet another case involving the laws and foreman clauses. In Matter of Salt Lake City Mailers Union No. 21, ITU, Case No. 20-CB-658, n. 4, supra, at R. p. 76, the attorney for the General Counsel, in objecting to evidence proffered by the respondents to show that the terms of the agreement had been in fact administered in non-discriminatory fashion, stated the General Counsel's position to be

"... that it does not matter what their practices are, does not matter what they understand, if they are not willing to follow the instructions of the Labor Board as to how contracts should be written, then they are to be held hable and penalized. And I think that's the issue that the ITU sees and why it litigates these cases; that it doesn't believe that it should be told how to write collective bargaining agreements".

A careful re-reading of the statute has failed to disclose any language authorizing the Board to issue "instructions... as to how contracts should be written". This Court has four times held to the contrary. NLRB v. American Insurance Co., 343 U.S. 395, 404 (1952);

Local 1976, Carpenters v. NLRB, 357 U.S. 93, 108 (1958); Local 24, Teamsters v. Oliver, 358 U.S. 283, 295 (1959); NLRB v. Insurance Agents, 361 U.S. 477, 490, 498 (1960).

For the reasons set forth above, we respectfully urge that the petition for certiorari be granted. In our view, the decisions of Chief Judge Prettyman in Honolulu Star-Bulletin and of Judge Hincks in News Syndicate are so carefully and compellingly reasoned as to warrant consideration by this Court of summary reversal of the decision below without the filing of further briefs or oral argument.

### Respectfully submitted,

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#### APPENDIX "A"

### United States Court of Appeals For the First Circuit

No. 5509

INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 38, AFL-CIO AND INTERNATIONAL TYPOGRAPHICAL UNION LOCAL 165, AFL-CIO AND ITS SCALE COMMITTEE, Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD, Respondent.

#### No. 5510

International Typographical Union, AFL-CIO, Petitioner,

NATIONAL LABOR RELATIONS BOARD, Respondent.

On petitions to review and set aside and on cross-petitions to enforce an order of the National Labor Relations Board.

Before Woodbury, Chief Judge, Hartigan, Circuit Judge, and Wyzanski, District Judge.

### Spinion of the Court.

May 10, 1960

WOODBURY, Chief Judge. The Haverhill Gazette Company and the Worcester Telegram Publishing Company, Inc., Haverhill and Worcester or collectively the employers hereinafter, are and for years have been engaged in the

business of publishing daily newspapers in their respective Massachusetts communities. Both subscribe to interstate news services, advertise nationally sold products and enjoy annual gross revenues from their publishing operations in excess of \$500,000. For a great many years the composing room employees, that is to say the printers, of Haverhill have been represented by Local 38 and the composing room employees of Worcester have been represented by Local 165 of International Typographical Union. AFL-CIO. Preexisting contracts between Haverhill and Worcester and the local unions representing their composing room employees having in each instance long expired. and in each instance attempts to negotiate new agreements having come to naught, strikes of the composing room employees of both employers ensued. At this juncture, on separate charges filed by Haverhill and Worcester, General Counsel for the National Labor Relations Board on February 6, 1958, filed separate complaints against the parent union, ITU hereinafter, and the local involved in each situation' alleging that the respondents had been and were engaging in various acts and conduct in violation of the Labor Management Relations Act, 1947, 29 U.S.C. § 141 et seq., 61 Stat. 136, as amended. The cases were consolidated for hearing by order of the Regional Director and hearings in the Worcester case were held in Worcester by a trial examiner in April, 1958. At those hearings evidence was introduced and counsel stipulated for the incorporation in the record to that case of the testimony of the president of ITU adduced in the New York Mailers Case, so called, Board Nos. 2-CB-4967, 2-CB-1769 and 2-CB-1807, and of the testimony in a proceeding under § 10(k) of the Act between ITU and Worcester. Counsel also stipulated that the record in a proceeding in the United States District Court for the District of Massachusetts for an injunction under § 10(j) of the Act entitled Alpert

<sup>&</sup>lt;sup>1</sup> Included in the complaint issued on Worcester's charge are also the Executive Council of ITU and the Scale Committee of Local 165.

v. ITU, 161 F. Supp. 427 (D.C. Mass. 1958), should constitute the record in the Haverhill case.

On the evidence before him in both cases the trial examiner found that the respondents had engaged and were engaging in some of the unfair labor practices charged against them in the complaints but had not and were not engaging in others, and recommended an order which he thought appropriate to his findings. Exceptions to the trial examiner's intermediate report, with supporting briefs, were filed by the respondents but the Board, with an exception to be noted hereinafter, affirmed the trial examiner and adopted his findings, conclusions and recommendations as its own. The respondents thereupon filed a petition in this court to review that order and set it aside and the Board countered with a petition for enforcement of its order.

There is little dispute over the facts, and the facts and issues in both cases are essentially the same. In both cases protracted negotiations for new collective bargaining agreements, in which officers of ITU participated with representatives of the local unions and officials of the New England Daily Newspaper Association, Inc., participated with the employers, finally broke down and in consequence late in November, 1957, the locals with ITU sanction and approval called the composing room employees of both employers out on strike. In each instance the bones of contention were much the same. The representatives of the local unions backed by the representatives of ITU adamantly insisted upon the inclusion of three clauses in any new contract and the representatives of the employers as adamantly insisted that the clauses were illegal and that no contract would be entered into in which the clauses were included. Moreover, regarding inclusion of the clauses as "key" issues both the employers' and the unions' representatives declined seriously to explore economic issues

such as hours, overtime, pensions, summer holidays,2 etc., until agreement should be reached on the clauses they regarded as crucial.

The three clauses on which the negotiators deadlocked were the jurisdiction, foreman<sup>3</sup> and general laws clauses which may as well be briefly described at this point.

The jurisdiction clause, on which the unions in both instances insisted, covered persons engaging in a number of new processes and operations, in addition to those covered by the jurisdiction clauses of the old contracts, which new processes and operations the unions considered substitutes for the processes and operations traditionally performed in the composing room by printers but which, with two exceptions, the employers were not using and did not contemplate installing in their plants.4 The foreman clause provided that the composing room foreman, who, had the power to hire, fire and process grievances, had to be a menber of the union although he would be exempt under certain circumstances from union discipline for activities, on behalf of management. The general laws clauses provided that the General Laws of the International Typographical Union in effect on January 1, 1956 (or in another version at the time a contract was signed), if not in conflict with state or federal law, should govern relations between the

<sup>&</sup>lt;sup>2</sup> During the negotiations Worcester and Haverbill with the approval of the unions voluntarily granted their composing room employees an increase in wages.

<sup>3</sup> Haverhill did not consider the foreman clause a "key." issue.

<sup>&</sup>lt;sup>4</sup> The new jurisdiction clause covered "paste-makeup" operations which at Worcester's plant had for many years been performed by artists who did not work in the composing room and had never been represented by Local 165. And it covered an operation or process involving the use of tape which Haverhill was using only experimentally.

<sup>&</sup>lt;sup>5</sup> The employers did not object to a union man being foreman. Indeed their foremen were union men. Their objection was to the requirement that their foreman had to be members of the Union.

parties on those subjects concerning which no provision was made in the contracts.

The trial examiner found that the unions were genuinely desirous of securing contracts with Worcester and Haverhill but that the evidence clearly showed that they insisted upon the acceptance of the jurisdiction, foreman and general laws clauses as written as a condition precedent to the execution of any collective bargaining agreements. But, believing the clauses illegal, the examiner concluded that by insisting that the employers agree to them the unions had refused to bargain collectively with the employers in violation of \$8(b)(3) of the Labor Management Relations Act, 1947.4 He also found that the primary object or purpose of the strikes called by the unions and their agents against the employers was to force the latter to accede to the unions' demand for inclusion of the three clauses he thought illegal and from that finding concluded that the unions had violated § 8(b)(2)7 of the Act in that they had attempted to cause the employers to encourage union membership by discrimination in regard to hire, tenure, terms or conditions of employment. As to the foreman clause, he thought they had also attempted to

<sup>&</sup>quot;It shall be an unfair labor practice for a labor organization or its agents—

in (3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 9 (a) of this title; ...."

<sup>7&</sup>quot;It shall be an unfair labor practice for a labor organization or its agents—

<sup>&</sup>quot;(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3)
..., which in pertinent part provides:

<sup>&</sup>quot;It shall be an unfair labor practice for an employer-

<sup>(3)</sup> by discrimination in regard to hire or fenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization:...."

coerce the employers in the selection of their representatives for the purpose of adjusting grievances in violation of §S(b)(1)(B) to be considered hereinafter.

#### The Jurisdiction Clause

The Board neither agreed nor disagreed with the trial examiner's conclusion that the unions had violated § 8(b)(2) by striking for the inclusion of the jurisdiction clause in future collective bargaining agreements. It said in a footnote to its decision that while it agreed with the trial examiner that the unions had violated § 8(b)(2) by striking to force the employers to accede to the uions' demands for the illegal foreman and general laws clauses, it found it "unnecessary to pass upon his finding that the Respondents violated Section 8(b)(2) by so striking also for the jurisdiction clause." Our consideration of this clause is, therefore narrowed to the question whether by insisting upon its inclusion in the future contracts the unions refused to bargain collectively in violation of § 8(b)(3).

There is no dispute that in both cases the jurisdiction clauses on which the unions insisted covered not only work which the unions and the employers had regarded in the past as composing room work, but also a number of job processes and operations which the employers had not and did not contemplate installing in their plants. In the case of Worcester it also covered, as previously noted, pastemakeup work which for years had been done by artists who did not work in the composing room and who had never been included in the composing room bargaining unit.

Norcester offered to include a clause in the new contract to the effect that it would not introduce certain new processes during the life of the contract but the unions rejected the offer.

<sup>&</sup>lt;sup>9</sup> In the § 10(k) proceeding referred to earlier in this opinion the Board held that Local 165 and its agents were not lawfully entitled to force or require Worcester to assign paste-makeup work to a member of the union rather than to an employee of its own choice.

Both employers had for years recognized their composing room employees as forming appropriate units for collective bargaining purposes, but there had never been a Board determination to that effect. Nevertheless, the trial examiner, the Board concurring, had no difficulty in finding that the composing room employees of the employers in the classifications covered by the past agreements between the unions and the employers, subject to the statutory exclusion of foremen, constituted appropriate units for the. purpose of collective bargaining within the meaning of § 9(a) of the Act. And it was similarly found that the respective unions represented a majority of the employees in those units. But, noting that in general the Board in the past had refused to include nonexistent or future job operations in the units it considered appropriate for the purposes of collective bargaining, it was determined by the trial examiner, the Board affirming, that units including nonexistent or future job operations upon which the unions insisted in their negotiations for future contracts were inappropriate. Hence it was determined that by insisting upon bargaining only for inappropriate units the unions had not fulfilled their obligation to bargain as required by § 8(b)(3) of the Act.

The Board's power to determine the units appropriate for collective bargaining is broad. "The issue as to what unit is appropriate for bargaining is one for which no absolute rule of law is laid down by statute, and none should be by decision. It involves of necessity a large measure of informed discretion, and the decision of the Board, if not final, is rarely to be disturbed." Packard Co. v. Labor Board, 330 U.S. 485, 491 (1947).

The unit on which the unions insisted is not a positively illegal unit, as for instance one including supervisory employees. Moreover, we cannot doubt that in a proper proceeding the Board in the exercise of its broad power could either include or exclude future or non-existent job

operations from the unit it determined appropriate for collective bargaining purposes. Thus this is not a case in which the unions are pressing for an obviously inappropriate unit. It may very well be sound policy for the Board not to include non-existent or future job classifications in the units it determines appropriate for collective bargaining purposes. It may be wiser to wait for the benefit of experience with new processes and operations rather than to attempt to anticipate the skills that may be required to carry them out. Moreover, inclusion of future or nonexistent job operations in a bargaining unit sets the stage for future proceedings under § 10(k) of the Act to settle jurisdictional disputes. Although the Board may think the unit on which the unions insisted inappropriate, it was not illegal, for a unit including future or non-existent jobs is neither unlawful per se nor obviously and clearly inappropriate.

The question is whether by insisting on the broader unitthe unions in effect were refusing to bargain collectively with the employers. To paraphrase what this court said in NLRB v. Reed & Prince Mfg. Co., 205 F. 2d 131, 134 (C.A. 1, 1953), the question is whether it is to be inferred. from the totality of the unions' conduct that they went through the motions of negotiation as an elaborate pretense with no sincere desire to reach an agreement if possible, or that they bargained in good faith but were unable to arrive at an acceptable agreement with the employers. This question, however, the Board itself answered when it adopted the trial examiner's finding that the unions were desirous of securing contracts with the employers. It may be that the unions were uncompromising in their jurisdictional demands, but under § 8(d) of the Act quoted in footnote 12, infra, the obligation to bargain collectively "in good faith" does not compel either party to agree to a proposal or require the making of a concession. Labor Board y. American Insurance Company, 343 U.S. 395 (1952). Although the unions may have insisted rather

stubbornly in their demand for the jurisdiction clause, we have little difficulty, in view of the finding that they sincerely desired contracts, in concluding that the unions by their insistence on the clause did not refuse to bargain collectively as required by § 8(b)(3) of the Act.

#### The Foreman Clause

This clause as proposed and insisted upon by the unions provides: "The hiring, operation, authority and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union. In the absence of the foreman, the foreman-in-charge shall so function.

"All orders, instructions, reprimands, etc., must be given through the foreman who shall have the right to assign men to any composing room work he deems necessary." 10

The trial examiner and the Board found that by insisting upon this clause the unions refused to bargain in good faith and that by striking in support of their insistence upon the clause the unions had undertaken to restrain or coerce the employers in the selection of their representatives for the adjustment of grievances in violation of §8(b)(1)(B) of the Act. The reasoning by which the trial examiner and the Board reached this conclusion is fragmentary and far from clear. Indeed, the trial examiner's intermediate re-

<sup>&</sup>lt;sup>10</sup> In the Worcester case the clause contained the further provision:

<sup>&</sup>quot;The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement."

or its agents—

<sup>(1)</sup> to restrain or coerce. (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment or grievances;

port, which the Board affirmed, consists of a lengthy recapitulation of the evidence interspersed here and there with a finding of fact followed by lengthy conclusions summarized in brief paragraphs. This technique of decision has not only rendered our consideration of this case exceedingly difficult and needlessly time consuming but has also served better to conceal than to disclose the Board's reasoning. Nevertheless, we agree with the Board's conclusions with respect to the foreman clause.

There can be no doubt that the foreman's duties necessarily included participation in the adjustment of employee grievances. Hence, by insisting that the foremen must be union members, the unions were restraining and coercing the employers in the selection of their representatives for grievance adjustment purposes. Not only would the clause as proposed by the unions limit the employers' choice of foremen to union members, but it would also give the unions power to force the discharge or demotion of a foreman by expelling him from the union.

It seems to us equally clear, however, that by insisting on the foreman clause as they wanted it, the unions violated §8(b)(2) of the Act quoted in material part in footnote 7, supra, for the effect of the clause would be to cause the employers to discriminate in favor of union men in appointing their foremen thereby encouraging aspirants for that position to join the union. And §8(b)(2) covers all situations in which the union seeks to cause the employer to accept conditions under which any non-union employee or job applicant will be lawfully discriminated against. NLRB v. National Maritime Union, 175 F.2d 686, 689 (C.A. 2. 1949). Thus we believe that by striking for the foreman clause the unions violated §8(b)(2) of the Act as well as §8(b)(1)(B).

And we think that in holding out for the clause the unions also refused to bargain collectively in violation of § S(B) (3). There may be cases in which uncompromising insist-

ence upon a legal contract clause is so utterly unreasonable under the circumstances as to warrant an inference of bad faith. The problem is to reconcile the duty to "confer" in "good faith" imposed by § S(d) of the Act 12 that is to say with the sincere and honest desire to reach an agreement if possible, and the right conferred in that section, perhaps even stubbornly, to refuse to agree to a proposal or to make a concession with respect to contract clause. However, to hold that good faith is a defense to the charge of refusal to bargain when the contract provision insisted upon is illegal per se is to put a premium on ignorance of the law or blind intransigency. Thus, as to this clause, the unions are not saved by the finding that they negotiated with the genuine desire to arrive at a contract.

It is true that in the Haverhill case the foreman clause was not a key issue. And it is also true that after the strikes the unions withdrew their demands for the clause. But there is no assurance that their demands for inclusion of the clause will not be renewed. Since bargaining demands for, and a strike aimed at forcing an employer to accede to, the inclusion of an obviously illegal provision in a collective bargaining contract justify enforcement of a cease and desist order, see NLRB v. National Maritime Union. 175 F.2d 686, 689 (C.A. 2, 1949), we think the Board is entitled to enforcement of its order so far as this clause is concerned.

performance of the mutual obligation of the employer and the representative of the employees to meet at reasonabl times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, of the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession; ...,

### The General Laws Clause.

There can be no doubt, indeed it is not seriously disputed, that several of the provisions of ITU general laws, if literally applied, would import illegal union security provisions into any collective bargaining agreement into which they might be incorporated. The question is whether the "not in conflict with law" provision, and the provision that the contract alone shall govern relations between the parties as to all matters concerning which it makes any provision, of the proposed contract clause with respect to the inclusion of the ITU general laws serves to immunize the proposed contract from the illegality of many of the general laws of ITU.

with respect to all matters as to which it makes any provision does not call for extended consideration, for it is clear that the local unions would not, and indeed could not, under ITU rules and regulations, enter into any collective bargaining agreement without ITU approval, and ITU's insistence that "Union language must be taken" with respect to its general laws demonstrates that ITU would not approve any contract provision substantially in conflict with its laws. The "not in conflict with law" provision or savings clause, as it is sometimes referred to, requires more lengthy discussion. 13

The United States Court of Appeals for the Second Circuit has answered in the negative the question of the immunizing effect of a not in conflict with law provision comparable to the one in the case at bar. In Red Star Express Lines v. NLRB, 196 F.2d 78, 81 (C.A. 2, 1952), that court per Judge A. N. Hand, Judge L. Hand dissenting, took the view that the question was not merely whether under prin-

<sup>&</sup>lt;sup>13</sup> The unions insist that in this case the clause should be called an "exclusionary clause." We see no significant difference in the terminology to be employed. We are not deciding this case on an issue of semantics.

ciples of contract law a "savings clause" addendum to a contract containing an illegal union security clause would contractually negative that clause. It took the view that the question was more whether the savings clause would have the effect of preventing the coercion which would : otherwise follow from inclusion of the illegal clause in the contract.14 As to the effect of the savings clause, the court accorded weight to the view of the Board. It noted that entering into a contract containing an illegal union security clause would constitute an unfair labor practice because the existence of such an agreement without more (whether enforced or not), would tend to encourage union membership. The court then said that the Act required that employees should be free to choose between joining and refusing to join a union and forbad any form of interference with that choice, and from this concluded that a contract containing an illegal union security clause, even though modified by an addendum in the form of a provision excluding whatever contract clause might be illegal, would not eliminate the coercive effect of the contract. "For," the court said, "the question is not only whether under principles of contract law the addendum would contractually negative the illegal union security clauses, but whether it would have the effect of preventing the coercion that would otherwise follow" from the inclusion of such clauses in the body of the contract. The court then said: "The Board found it would not have such an effect 'because it fails to specify which, if any, clauses were to be suspended.' In our opinion the Board was entitled to adopt this view as a matter of sound policy and reasonable interpretation. The vague language of the addendum would not help the ordinary employee to understand that the union security clause was no longer binding."?

<sup>14</sup> We perceive no reason why the coercive effect of the illegal clauses would be lessened if, as in this case, they are incorporated by reference into the contract, rather than written into the contract itself.

As explained in NLRB v. Gaynor News Co., 197 F. 2d 719, 723, 724 (C.A. 2, 1952), the court's reasoning in the Roll Star Express Lines case was "that an employee cannot be expected to predict the validity or invalidity of particular clauses in the contract, and will feel compelled to join the union where a union-security clause of questionable validity exists, if only as a hedging device against a possible future upholding of a clause." In accord see NLRB-v. Gottfried Baking Co., 210 F.2d 772, 780-(C.A. 2, 1954).

The question is not free from doubt. Nevertheless, in spite of perhaps some inferences to the contrary to be drawn from *Honolulu Star-Bulletin*, *Ltd.* v. *NLRB*, 274 F.2d 567 (C.A. D.C. 1959), we agree with both the reasoning and the result of the cases from the Court of Appeals for the Second Circuit cited above.

The question now arises whether a union is to be found guitty of unfair labor practices when it bargains for and strikes to coerce an employer to consent to the inclusion in a collective bargaining agreement of clauses of honestly disputable validity at the time of the union action. We think this question must be answered in the affirmative.

It is true that the legality or illegality of the unions' conduct at the bargaining conferences and in calling the strikes, so far as the General Laws clause is concerned, can only be determined by subsequent action by the Board followed by proceedings in a court of appeals or perhaps in the Supreme Court of the United States. But, as this court pointed out in a comparable situation in NLRB v. Local 404, etc., 205 F.2d 99, 102, 103 (C.A. 1, 1953), "this in itself presents no unique situation." The point in that case as in this is simply that the unions were acting at their peril, that is to say, at the risk of an enforcement order, when they sought to compel the employers to submit to their demand for inclusion of the ITU general laws in the collective bargaining contracts under negotiation.

ITU's contention that it is not a proper party to this proceeding, and so that the Board erred in finding that it had committed any unfair labor practices, deserves only brief consideration. There can be no doubt whatever that officers of ITU actively participated with officers of the local unions in negotiating for contracts with both Haverhill and Worcester. Nor can there be any doubt that under ITU. rules and regulations any contracts negotiated by the local unions had to be submitted to and approved by an agency of ITU. Furthermore, the evidence is clear that in both cases the strikes were sanctioned and approved by high officers of ITU. We think it clear that under these circumstances ITU, and in the Worcester case its Executive Council, were proper parties to this proceeding and were properly chargeable with the unfair labor practices found to have been committed by the locals. See American Newspaper Publishers Ass'n v. NLRB, 193 F.2d 782, 804, 805 (C.A. 7, 1951, cert. denied on this point 344 U.S. 812 (1951).

The order entered by the Board, in effect, requires both respondents to cease and desist from engaging in action with respect to Haverhill and Worcester that would violate. sections 8(b)(1)(B); 8 (b)(2), and 8(b)(3) of the Act in any manner. See Communications Workers gtc. et al. v. N.L.R.B., decided by the Supreme Court of the United States May 2, 1960. We consider this order to be excessively broad. It is true that this court upheld an order forbidding a union to engage in certain conduct with respect to any other employer. NLRB v. Springfield Building & Const. Trades Council, 262 F.2d 494 (C.A. 1, 1958). In that case, however, the unions were told what the proscribed conduct was a As the Board's order now stands any alleged violation of the aforementionad sections would be tried in this court in the first instance in a contempt proceeding, no matter how unrelated it may be to the earlier illegal activity engaged in by the union. And, "the authority conferred on the Board to restrain the practice which it has found

the employer (union) to have committed is not an authority to restrain generally all other unlawful practices which it has neither found to have been pursued nor persuasively to be related to the proven unlawful conduct." Labor Board v. Express Publishing Co., 312 U.S. 426, 433 (1941). Accordingly, we restrict the Board's order to the specific practices found to be unlawful, or practices persuasively related thereto.

A decree will be entered enforcing the Order of the Board as modified in accordance with this opinion.

# United States Court of Appeals For the District of Columbia Circuit

No. 15044

HONORULE STAR-BULLETIN, LTD., Petitioner

V.

NATIONAL LABOR RELATIONS BOARD, Respondent HONOLULU TYPOGRAPHICAL UNION #37, Intervenor

On Petition to Review and Set Aside and on Cross-Petition for Enforcement of an Order of the National Labor Relations Board

Decided November 25, 1959

Before PRETTYMAN, Chief Judge, and EDGERTON and WILBUR K. MULER, Circuit Judges.

PRETTYMAN, Chief Judge: This is a petition to review an order of the National Labor Relations Board; there is also a cross-petition for enforcement of the order. Our petitioner, Honolulu Star-Bulletin, Ltd., publishes a daily newspaper in Hawaii and also has a commercial printing business. After collective bargaining it entered into a contract with the Honolulu Typographical Union No. 37, an affiliate of the International Typographical Union AFL-CIO. The employees involved were those in the composing room.

The company discharged two employees, named Tamanaha and Van Kralingen. They brought charges against the company, and the General Counsel to the Board issued a complaint charging unfair labor practices. The complaint alleged that the company discharged and refused to reinstate Van Kralingen because of his activities on behalf of the Union and because of other concerted activities for the purpose of collective bargaining. It alleged that the company discharged Tamanaha at the demand of the Union because his Union membership was revoked by the Union for his failure to complete a course of study provided by the Union. The Union intervened in the proceeding in support of the company.

The Board held that the contract between the company and the Union was illegal per se and that the two employees were discharged in violation of the statute. It ordered the reinstatement of the two men with back pay. It further ordered the company to reimburse all its employees and former employees in the composing room for all dues and assessments paid to the Union during the period covered by the charges, fixed as beginning six months prior to the service of the initial charges.

The Board held that the contract required the employment of Union members only, unlawfully delegated to the Union complete unilateral control over the hiring process, and made the payment of dues and assessments a condition of employment. In summary, as the Board tells us in its brief here, its holding was that the contract incorporated closed shop provisions which appear in the General Laws of the International Typographical Union. The Board's reasoning was that the shop foreman was a member of the Union, that he had the power to hire and fire, and that he, as a member of the Union, was bound by the General Laws of the Union.

The foregoing ruling of the Board is conclusively refuted by the terms of the contract. The pertinent provisions are:

"Section 2. Employees. (a) The words 'employee' or 'employees' when used in this agreement apply to

journeymen and apprentices. The term 'journeymen' and 'apprentices' shall in no way be understood to apply exclusively to members of the International Typographical Union.

"Section 24. \* \* \*

"(c) \* It is understood and agreed that the general laws of the International Typographical Union, in effect January 1, 1956, not in conflict with tederal and territorial (state) law or this contract, shall govern relations between the parties on conditions not specifically enumerated herein. \* \* \*." (Emphasis added.)

The provisions of Section 2(a), above quoted, seem to us to be clear beyond question. The specific provision was that employees, who must be journeymen or apprentice printers, need not be members of the Union. Section 24(c), as shown by the above quotation, clearly provided that the General Laws of the Union in conflict with either federal law or the contract itself were not included in the contract. A closed-shop provision would have been in conflict with the federal law and also in conflict with Section 2(a) of the contract. Any such provision in the General Laws was excepted from inclusion in this contract. We do not see how language could have been clearer.

If the terms of the contract were ambiguous, which we think they are not, we would look to the conduct of the

<sup>&</sup>lt;sup>1</sup> Labor Management Relations Act § 8(a)(3), 61 Stat. 140 (1947), as amended, 29 U. S. C. § 158(a)(3) (1958).

of this contract, is merely a savings clause of the type found ineffectual in Red Star Exp. Lines v. N. L. R. B., 196 F. 2d 78 (2d Cir. 1952), and other cases cited to us. In Red Star the savings clause was heldeinsufficient to remove the coercive effect upon employees of an explicit (ill. al) union-security clause. The present gentract contained no such explicit provision, and Section 24(c) was not a suspension of the operation of any illegal clause but rather an incorporation of certain general laws.

parties under the contract to ascertain its meaning. The fact is that, for some years prior to, as well as during, the events here involved, five of the thirty-five employees in the composing room were non-Union men. During the year preceding the hearing the foreman, who had power to hire, had employed four non-Union men. These facts support the provisions of the contract as we read them.

As a matter of fact Article XIV of the General Laws of the Union provides specifically that "In circumstances in which the enforcement or observance of provisions of the General Laws would be contrary to public law, they are suspended so long as such public law remains in effect."

If the matter were open to inference, it seems to us powerful circumstances would be necessary to justify an inference that a Union of so widespread membership and affiliated locals as is this one (the ITU) would deliberately insert in every contract negotiated by it a clause flatly in violation of a federal statute, thus making every such contract illegal. The President of the ITU was careful on this point. Approving this contract he wrote that it was "in compliance with the laws of the International Typographical Union as limited by the Taft-Hartley law."

The Board presents two contentions in support of its view. The first is that since the foreman was a Union man it must be assumed that he would be guided in his hiring by the Rules of the Union rather than by the contract between his employer and the Union. In the first place, as we have already indicated, such an assumption would be contrary to the fact; he did hire non-Union men. In the second place, a similar argument was made to this court in Carpenters District Council v. N.L.R.B. and was rejected. The Board's second contention is that the rank and file of employees and potential employees

<sup>3....</sup> U. S. App. D. C. ....... F. 2d .... (1959).

would have the impression that the Rules of the Union, rather than the contract between the employer and the Union, would govern the employment policies of the employer. In other words, the Board says that, since the contract mentions the Rules of the Union, employees would have the impression that the Rules were incorporated in their entirety, and would not differentiate those contrary to law or to the contract. From that premise the Board reasons that the contract is per se a closed-shop contract. This conclusion is a complete non sequitur. An erroneous impression of plain terms does not change the meaning of the plain terms. Furthermore assumptions that employees will not understand a lawful contract cannot be a basis for holding the contract illegal. What would be the justification for emphatic insistence upon formal collective bargaining as to terms of employment, if the conduct of the parties thereafter is to be judged by speculative, uninformed impressions of those terms instead of by the terms themselves as hammered out at the negotiation table?

The Board says the phrase "not in conflict with federal . . . law" in Section 24(c) of the contract places an onerous burden on employees seeking to determine what the contract in fact provides. As to some conditions in the General Laws of the Union there might be uncertainty; we do not know as to that. But there could hardly be any uncertainty respecting a closed-shop clause so far as this contract is concerned. Furthermore, as counsel for the intervening Union cogently points out, the Board's language in its own order demonstrates the inevitability of some uncertainty and confusion in this general area. The Board twice, in the "Notice to All Employees" which it required to be posted, directs the company to recite an abjuration of certain activities "except to the extent permitted by Section S(a)(3) of the Act". Counsel pointedly queries whether the latter quoted expression is less confusing than the phrase "not in conflict with federal \* \* \* law". In this connection we are impelled to inquire: What could be more confusing to rank-and-file employees than an official ruling that a contract which specifically says they need not be members of a union means that they must be members?

We hold erroneous the conclusion of the Board that this contract was illegal per se.

This brings us to the discharges of the two employees. First as to Van Kralingen: The night foreman, one Blade, under whom Van Kralingen worked, testified in detail and at length that Van Kralingen, on an average of two or three times a night, "It got to the place where it was rather incessant and continuous"-engaged groups of employees in discussions. He testified that as a result Van Kralingen's production as an individual was down and the "Furthermore, he was disturbing the morale and production of the entire shop." He therefore repeatedly recommended to the foreman of the shop, one Larson, that Van Kralingen be discharged. Blade testified that because of a shortage of labor they decided "to more or less try to neglect it," hoping that the trouble would clear itself up and get better. However, he testified, the difficulty increased-"That was what brought about his discharge."

Van Kralingen had been hired on July 2, 1956. When Larson, the foreman, came to work on November 12, 1956, he found posted on the bulletin board a long letter signed by Van Kralingen and addressed to "Union Brothers and Sisters". It appears that Van Kralingen was running for chairman of "the chapel", and this was his platform. One item strongly stressed was that the company hired non-Union men. His plan was that the Union invite the non-Union men to join but that, if they were not thus convinced, the Union men should show the non-Union workers "that we do not care to associate with them, either, even to the extent of talking to them." The letter

emphasized that the non-Union men were taking home more money than the Union members, because the latter had to pay Union dues. Foreman Larson testified that this letter was "just the clincher, that's all." He said that the letter was in direct violation of the contract between the company and the Union, that it urged a boycott of the non-Union men in the shop, and that he realized that there was just no hope of straightening the man out. Thus there was explicit testimony by the foreman and the night foreman as to the reason for the discharge, and there was undisputed factual foundation for the reason thus given.

The Board says that, since Larson did not have before him at the moment he discharged Van Kralingen, a request from the night foreman that he be discharged, he did not discharge Van Kralingen because of complaints by the night foreman. That position is untenable. In the first place, without any contradictory evidence it ignores the unequivocal testimony of Larson, the foreman. In the second place, the complaints of the night foreman, repeated over a considerable period of time, the last one only a few days, possibly a week, before the date of the discharge, would clearly have a cumulative effect on Larson. He so testified. With such a series of complaints and requests for discharge before him, almost any additional incident might be the "clincher". It seems to us wholly untenable to ignore the series of events and, without explicit evidence to support the inference, to infer that only the final event was the cause of discharge.

We are of opinion that the finding of the Board that Van Kralingen was discharged because of protected Union activities is not supported by substantial evidence on the record as a whole.

We are of opinion that the conclusion of the Board that Tamanaha was discharged because he was no longer a member in good standing of the Union, and pursuant to \* the Union's demand, is supported by substantial evidence. There was evidence which would have supported a contrary result. The contract required the company to emoploy a specified number of apprentices and a proportionate number of journeymen in the contposing room. The full number of apprentices were already on the roll, so Tamanaha was given a temporary status as a journeyman. his retention in that status being conditioned upon his taking . Surse of study and qualifying himself as a So the prerequisite to his keeping the job was not membership in the Union but was full qualification as a journeyman. But, on the other hand, there was a cancellation of his Union membership and a demand on the company by the Union for his discharge. These facts supported the Board's view of the matter, and they are sufficient.

The Board ruled that the company must reimburse all its employees and former employees in the composing room who had paid dues and assessments to the Union. This was on the theory that the contract was unlawful, in that it encouraged employees to join the Union to obtain work, thereby inevitably coercing employees to pay dues and assessments to the Union. Since we find that the contract was not illegal and was not a closed-shop agreement, the premise for the Board's ruling falls. The Board's finding that the payment of dues and assessments to the Union was made a condition of employment is without the slightest semblance of support in the record. This provision of the order, therefore, will not be enforced.

The case must be remanded to the Board for entry of orders not inconsistent with this opinion. The cross-petition now before us for enforcement of the order will be denied. Technically one paragraph of that order (dealing with Tamanaha) could be enforced, but it seems to us a less confusing procedure is to cancel that order and enter another limited to the permissible provisions.

Order set aside, and case remanded.

# United States Court of Appeals For the Second Circuit

No. 45-October Term, 1959.

(Argued January)12, 1960

Decided May 20, 1960.)

Docket No. 20496

NATIONAL LABOR RELATIONS BOARD, Petitioner,

NEWS SYNDICATE COMPANY, INC., and New YORK MAILERS' Union No. 6, International Typographical Union, AFL-CIO, Respondents.

Before: CLARK, HINCKS and WATERMAN, Circuit Judges.

On petition of National Labor Relations Board for enforcement, its order, 122 NLRB No. 92, is set aside and the case remanded.

HINCKS, Circuit Judge:

The National Labor Relations Board petitions for enforcement of its order1 which issued as a result of charges filed by a mail room employee of each of two New York newspapers, the New York Daily News, published by News Syndicate Company, Inc., herein called the News, and the Wall Street Journal, published by Dow Jones and Company, Inc., herein called the Journal. The charges were

The Board's decision and order (which were issued on January 2, 1959; corrected on January 21, 1959; and amended on March 2, 1959) are reported at 122 NLRB 818.

brought<sup>2</sup> only against the News and against the New York Mailers Union No. 6, International Typographical Union, AFL-CIO, herein called the Union, with whom, both in 1954 and 1956, the News and the Journal had executed two-year collective bargaining agreements covering their mail room employees.<sup>3</sup> The Board held that these contracts,<sup>4</sup> when read in conjunction with their references to the General Laws of the International Typographical Union, herein called the General Laws, constituted per se violations of Section 8(b)(1)(A) and (2), and Section 8(a)(1) and (3) of the National Labor Relations Act of 1947, 29 U. S. C. A. § 151 et seq., by the Union and the News, respectively.

The Board also found that the respondents had, in fact, maintained and enforced unlawful Union security and preferential hiring practices at the News and Journal mail rooms, as a result of which the two complaining employees, Burton Randall, at the News, and Julius Arrigale, at the Journal, were unlawfully discriminated against in their employment. Numerous remedies were ordered, which, however, in view of our conclusions on other dispositive issues, we need not discuss.

We will first deal with those contractual provisions held to be per se violative of the Act. The contract contains nothing which on its face could be said to be violative of the Act. The General Counsel so conceded at the hearing and the Board does not contend otherwise. Rather, it here advances the same argument which was recently rejected by the District of Columbia Circuit. Honolulu Star

<sup>&</sup>lt;sup>2</sup> Since no charges were filed against the Journal, the Board made no unfair labor practice findings with respect to it.

All New York City newspaper publishers subscribed to the 1954 and 1956 contracts, herein attacked as unlawful, and which are more fully described below.

The two contracts involved herein are identical in their pertinent provisions and they shall, hereafter, be referred to in the, singular.

Bulletin v. N. L. R. B., 274 F. 2d 567. Because of our substantial agreement with the penetrating and sound conclusion of that court, we shall have less to say on this aspect of the instant controversy than if the argument had not already had such authoritative judicial consideration.

The Board's position now is that, notwithstanding the seemingly legal contractual provisions which limit mail room employment to "journeymen and apprentices," who are defined quite innocuously in Section 20-b of the contract and without reference to Union membership, see Evans v. International Typographical Union, D. C. Ind., 81 F. Supp. 675, 686; the contract is illegal because of a clause therein which incorporates those General Laws of the International Union which are "not in conflict with this con-

The General Counsel commented at trial that "My reading of the contract did not indicate that there was any violation with respect to the method-b, which a person could become a journeyman, at least from the face of the contract. That appeared to be yalid as set out in Section 20(b) of the contract.

<sup>5</sup> Excerpt from Section 20-b:

<sup>· · ·</sup> Only journeymen and apprentices shall be employed mowork covered by this agreement. Apprentices may be employed only in accordance with the ratio of apprentices to journeymen provided elsewhere in this agreement. Journeymen are defined as: (1.) Persons who prior to the effective date hereof worked as such in the mailing rooms of papers signatory to this contract; (2) persons who have completed apprentice training as provided in this contract, or have passed a qualifying examination under procedures be etofore recognized by the Unjon and the Publishers; (3) persons who have passed an examination recognized by both parties to this contract and have qualified as journeymen in accordance therewith. Persons seeking to qualify as journeymen shall be given an examination under nondiscriminatory standards and procedures established by the parties bereto by impartial examiners qualified to judge journeyman competency selected by the parties hereto. In the even agreement cannot be reached on the standards or procedures to be followed, or the examiners to conduct such examinations, the dispute shall be submitted to the Joint Standir Committee whose decision shall be final and binding. on the parties."

tract or with federal or state law" to "govern relations between the parties o conditions not specifically enumerated herein."

Certain of these General Laws concededly condition journeymen and apprentice status on Union membership and they further require each local Union to establish Union employment priority and seniority systems covering its members. Such conditions, the Board held, unlaw-

"Both parties agree that their respective rights and obligations under this contract will have been accorded by the performance and fulfillment of the terms and conditions thereof and that the complete obligation of each to the other is expressed herein. It is understood and agreed that the General Laws of the International Typographical Union in effect Jannary 1, 1955, not in conflict with this contract or with federal or state law shall govern relations between the parties on conditions not specifically enumerated herein."

#### Section 38 provides:

"Mutual Gyarantecs. Because of the enactment of the Labor-Management Relations Act of 1947 this contract differs from contracts between these parties over a period of many years. It is understood and agreed, however, for the duration of this contract, that if any provision modified from any preceding contract or excluded from this contract solely because of the restrictions of law, no longer is held to be inoperative, either by legislative enactment or by decision of the court of highest recourse, then such provision automatically shall become a part of this contract, to the extent permitted, and be in force and effect as though it had been originally made a part hereof,"

The respondents assert without challenge that no union security clause has appeared in a collective bargaining agreement between the parties since 1948.

#### "ARTICLE V-FOREMEN

"Section 11. All persons performing the work of foremen or journeymen, at any branch of the printing trade, in offices under the jurisdiction of the International Typographical

<sup>6</sup> Section 24 of the contract reads;

<sup>7</sup> Extracts from General Laws:

fully created discriminatory and coercive conditions. It also held illegal the contractual provisions vesting hiring authority in the mail room foremen, who were required to

Union, must be active members of the local union of their craft and entitled to all the privileges and benefits of membership.

#### "ARTICLE VII-MACHINES

"Section 1: ". None but members [of the ITU] shall be permitted to operate, maintain and service any mailing machinery or equipment when used on work under the jurisdiction of the International Typographical Union. .

Section 2: In machine offices under the jurisdiction of the International Typographical Union, no person shall be eligible as a 'learner' on machines who is not a member of the Inter-

national Typographical Union. •

## "ARTICLE X-PRIORITY

"Section 2: Subordinate unions shall establish a system for registering and recording priority standing of members in all chapels, which shall be conspicuously posted or kept in a place within the chapel accessible to members at all times. priority standing of a member shall stand as recorded.

"Section 5: Any member engaged to serve the International Typographical Union, a subordinate union or to perform work in the interest of the organized labor movement, or any member incapacitated by illness, shall not be deprived of priority standing while so employed or so incapacitated. Such member shall employ while absent the priority substitute competent to perform the work if one is available. The situation holder shall not suffer loss of situation or priority in the event such a substitute is not available. After thirty calendar days the situation shall be filled by priority sub, and considered in the category of a new situation. Upon reporting for duty full priority rights shall be restored.

"Section 6: Available priority substitute competent to perform the work must be employed on any new situation created because of the absence of a situation holder from his or her situation for more than thirty calendar days, and whose priority is protected under the provisions of other sections of I.T.U. laws or contracts: Provided, Should a substitute with greater priority become available such substitute shall be placed on said situation: Provided, further, Local unions may establish by contract, for the purpose of avoiding multiple changes in preferred shifts and starting times, for the employment of the available priority substitute after thirty calendar days and continuing to, but not more than ninety days from absence of situation holder,"

be Union members in good standing, since, reasoned the Board, such foremen would have to follow, both under the terms of the contract and under their Union oath, the closed-shop and priority and seniority system provisions of the General Laws. Finally, on the basis of the foremen's hiring authority under the contract and their Union obligations, the Board concluded that, regardless of the unlawful provisions of the General Laws, the News had unlawfully delegated exclusive mail room hiring to the Union, in a fashion incompatible with the expressed standards required by the Board. Mountain Pacific Chapter of the Associated General Contractors. 119 NLRB 833, 893, 897, enforcement denied, N. L. R. B. v. Mountain Pacific Chapter of Assoc. Gen. Con., 9 Cir., 270 F. 2d 425.

The respondents raise several serious objections to the Board's conclusion that the contract was illegal on its face. But we find it necessary to go no further than to overrule the Board's holding on the reasoning and on the ground developed in Honolulu Star Bulletin v. N. L. R. B., supra. See also Lewis v. Quality Coal Corp., 7 Cir., 270 F. 2d 140. The facts of the case here fall directly within the scope of the Honolulu Star case: the contract here contained no explicit illegal Union security clause and did not purport to incorporate illegal provisions of the General Laws, but only those which were "not in conflict " " with federal or

The Board points to various provisions in the General Laws and local Union constitution, by-laws and rules which require all Union members to comply with all General Laws and local Union laws. These laws in turn provide for closed-shop and preferential hiring conditions. The Union points to both a 1951 amendment of the General Laws which abolished an oath provision requiring discrimination against nonmembers and a 1953 amendment to the ITU's Constitution which abolished a prior provision requiring all members to accord preference to other members.

<sup>&</sup>lt;sup>9</sup> In addition to the respondents, the International Typographical Union, AFL-CIO, has filed a brief in opposition to the Board's petition, pursuant to this Court's permission.

state law . . . . . In this respect the contract is distinguishable from those involved in Red Star Express Lines'v. N. L. R. B., 2 Cir., 196 Fed. 2d 78, and other cases relied on by the Board, such as N. L. R. B. x. Gottfried Raking Co., 2 Cir., 210 F. 2d 772, and N. L. R. B. v. Gaynor News Co., 2 Cir., 197 F. 2d 719, affirmed 347 U. S. 17. In such cases, hypothetical language in collective bargaining agreements as to the effect of illegal union security provisions which were explicitly included therein was thought to be insufficient to negate their illegal coercive force. The cases make it plain that in scanning a contract for its possible coercive effect on employees the test is whether the natural and foreseeable consequence of the language adopted is to encourage union membership. Cf. Radio Officers v. N. L. R. B., 347 U. S. 17, 52. We hold this is not such a contract.

The Board also held that the contract, by its reference to the General Laws, delegated complete control over seniority matters to the Union, and hence tended to encourage Union membership in violation of the Act. In so ruling, the Board relied upon Malter of Pacific Intermountain Express Co., 107 NLRB 837, enforced as modified, N. L. R. B. v. International Brotherhood of Teamsters, 8 Cir., 225 F. 2d 343; see also N. L. R. B. v. Dallas General Drivers, Etc., 5 Cir., 228 F. 2d 702.

apprentice' is not explicitly defined to exclude nonunion employees, the contract did not, as in the Honolulu case, specifically provide that the term "journeyman and apprentice," was in no way to be interpreted as applying exclusively to Union members. However, we do not read the Honolulu opinion as turning primarily upon that provision. Its real thrust was its rejection of the same incorporation by reference argument here urged. Indeed, in an earlier case before the Board, a trial examiner found similar contractual provisions valid and he rejected the "incorporation by reference theory" here advanced. The Board, at that time, did not object to his ruling. Matter of Kansas City Star Co., 119 NLRB 972.

As to this we think there is a fatal defect in the Board's minor premise, viz., that unrestricted hiring and seniority control was, under the contract, delegated to the Union. Initially, we note that the contract itself does not purport to make such a delegation: on the contrary, it deals specifically with many crucial problems of employee priority and seniority. Thus, under Section 20-a of the contract, the foreman is given hiring authority, but the order of hiring priority and seniority is clearly spelled out with respect to decreasing and increasing the work force. Furthermore, under Section 22 the seniority status of employees who are on leave of absence for military and Union reasons is also

#### Section 20-b reads:

"The Foreman shall do all the hiring and discharging of all employees engaged in working in the various mail rooms. The Foreman shall have sole authority to issue orders, but he may designate other members to act as Assistant Foremen to direct the work, and all employees shall comply with all such orders issued within the terms of this agreement. Failure to comply shall constitute grounds for discharge."

<sup>11</sup> Section 20-a of the contract reads:

<sup>&</sup>quot;The operation, authority, and control of each mail room" shall be vested exclusively in the office through its representative, the Foreman. In the absence of the Foreman, the Foreman-in-Charge'shall so function. Formen of Mail Rooms have the right to employ help and may discharge (1) for incompetency, (2) for neglect of duty, (3) for violation of office rules, which shall be kept conspicuously posted, and which shall in no way abridge the civil rights of employees or their rights under accepted International Typographical Union laws, and (4) to decrease the force, such decrease to be accomplished by discharging first the person or persons last employed, either as regular employees or as extra employees, as the exigencies of the matter may require. Should there be an incrase in the force, the persons displaced through such cause shall be reemployed in reverse order in which they were discharged before other help may be employed. Upon demand, the Foreman shall give the reason for discharge in writing. The substitute oldest in continuous service shall have prior right in the filing of the first vacancy."

expressed in the contract.<sup>12</sup> We are, therefore, hard pressed to discover language indicative of a contractual intent to delegate authority to the Union to determine the seniority of even its own members, since it would appear that any. General Laws dealing with seniority matters would be "in conflict with this contract," and would not concern "relations between the parties on conditions not specifically enumerated herein." Moreover, under Section 33 seniority controversies, at least those arising out of the contractual provisions, were subject to the contractual arbitration machinery and were not under exclusive Union control. ""

York Mailers' Union No. 6 are on leave of absence from their jobs because of holding office in New York Mailers' Union No. 6, or the International Typographical Union, or performing any service for these Unions, such members shall be returned to their former or similar positions on the expiration of their leave. The Union shall certify to such absence to the Foreman in writing.

<sup>&</sup>quot;Section 22-b. In cases where employees are admitted as residents of the Union Printers' Home, or who enlist in or are drafted for service in the military or naval services of the United States or the Dominion of Canada (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the governments of said countries or during the time when such armed forces are engaged in active combat with the military forces of another nation which presents a threat to the security of the United States or Canada, or those who may actively engage in war work for the American Red Cross, or other similar accredited agencies, their situations and/or priority standing shall be protected and upon again reporting for duty the situations and/or priority standing formerly held by these employees shall be restored to them."

<sup>13</sup> See fn. 6, supra.

<sup>14</sup> Section 33-b provides:

<sup>&</sup>quot;To the Joint Standing Committee shall be referred for settlement all questions which may arise as to the scale of wages, all disputes (except discharge cases) arising out of the operation of this agreement, all disputes regarding the interpretation of any portion of this agreement and any and all disputes (except discharge cases) arising out of, relating to, or affecting the operation of this contract. The Joint Standing Committee must meet within five (5) days from the date on which either party hereto, through its authorized representa-

Even if we were to assume that the contract incorporates those General Laws which provide that local Unions shall maintain priority and seniority lists of their members,15 we could not accept the Board's conclusion that the parties had thereby delegated exclusive control over seniority matters to the Union. The contract expressly provides that "all disputes arising out of, relating to, or affecting the operation of this contract" are subject to arbitration, and surely seniority disputes would be included therein. The Board's contrary view, which is based upon the fact that the General Laws were not subject to arbitration, is not persuasive, since it would be the local seniority lists rather than the General Laws which would be arbitrated. Finally, the uncontradicted testimony of the Union's president that all controversies dealing with priority and seniority were subject to, and had, in fact, gone to arbitration, indicates that the parties interpreted the contract in conformity with the natural meaning weassign to it.

Our holding that the contract did not provide for a closedshop largely undermines the foundation for the Board's contention that the contractual provision giving Union foremen hiring authority was, per se, an unlawful attempt to maintain closed-shop and Union-controlled hiring practices. The foremen, under the contract at least, were not subject to the conflicting obligations of two masters. Regardless of

tive, notifies the other party in writing that a meeting is desired and shall proceed forthwith to settle any questions before it. Such decision to be final and binding on both parties to this contract."

Section 33-a provides that the Joint Standing Committee shall be composed of four members; two members to be named by the Publisher, and two members by the Union.

Section 33-c provides for a Board of Arbitration, in case of a deadlock in the Joint Standing Committee, said Board to be composed of the Committee and a fifth, disinterested party.

<sup>15</sup> See fn. 7, supra.

the Union obligations to which, without more,16 a foreman would be subject by reason of his Union membership, Section 20-c of the contract specifically provides that: "The Union shall not discipline the foreman for carrying out the instructions of the publisher or his representative in accordance with this agreement." Furthermore, Section 4 provides: " \* \* \* Foremen \* \* \* shall be appointed and may be removed by the Publishers." By these provisions the parties clearly indicated that the foreman are solely the employers' agents and that they are under an obligation to act in accordance with the agreement, in spite of Union ties and obligations which otherwise might control. See Evening Sta. Newspaper Co. v. Colûmbia Typographical Union, 141 F. Supp. 374, aff'd D. C. Cir., 233 F. 2d 697; ef. Evans v. International Typographical Union, supra, at 683-684. In any:event, there is no presumption of law, we hold, that under the terms of this contract a foreman would be guided by his Union obligations rather than those expressed in the collective bargaining agreement between his employer and the Union. Honolulu Star Bulletin v. N. L. R. B., supra; Carpenters District Council, Etc. v. N. L. R. B., D. C. Cir., 274 F. 2d 564

Of course, few would doubt that in practice Union foremen could discriminate against nonunion applicants in the exercise of their hiring power. But a mere power to discriminate is not illegal as even the Board appears to recognize. See Evans v. International Typographical-Union, supra. at 684-685; ef. Chicago Rawhide Mfg. Co. v. N. L. R. B., 7 Cir., 221 F. 2d 165, 170; Coppus Engineering Corp. v. N. L. R. B., 1 Cir., 240 F. 2d 564, 572, 574. Indeed, such recognition is implicit in the Board's order which prohibits the News and the Union from requiring mail room foremen to be Union members only until such foremen are directly advised by the Union that they can disregard those provisions of the General Laws which call for closed-shop con-

<sup>16</sup> See fn. 3, supra.

ditions and preferential Union hiring. In the absence of provisions calling explicitly for illegal conduct, the contract cannot be held illegal because it failed affirmatively to disclaim all illegal objectives. N. L. R. B. v. Mountain Pacific Chapter of Assoc. Gen. Con., supra, at 431, cf. N. L. R. B. v. Revere Metal Art Co., Inc., etc., 2 Cir., May 6, 1950, — F. 2d —.

Nor can we sustain the Board's finding that irrespective of the closed-shop provisions of the General Laws and the foreman's obligation to follow them, his hiring authority, in fact, vested the Union with exclusive control over hiring. The Board's so-called Mountain Pacific doctrine even if sound is not applicable here.17 For the News, not unlike numerous other employers, merely placed its hiring powers in the hands of its principal employee, the foreman who discharged that responsibility on the employer's premises. The News, like any other employer, is of course crititled to employ only Union foremen, if it so desires. Section 2(3) & (11), 14(a) of the Act, 29 U. S. C. §§ 152(3) & (11), 164 (a); Carpenters District Council, Etc. v. N. L. R. B., supra; cf. A. H. Bull Steamship Co. v. National Marine Engineers Reneficial Ass'n, 2 Cir., 250 F. 2d 332. But, as we have already noted, the foreman's prime allegiance and responsibility was owed to his employer and to the terms of the collective bargaining agreement. We are unable to discover any reasonable ground of support for the conclusion that these hiring conditions would lead an employee to · legitimately assume, regardless of the actual operations of the arrangement, that his employment opportunities depended upon his Union membership.

<sup>17</sup> N. L. R. B. v. Mountain Pacific Chapter of Assoc. Gen. Con., supra; N. L. R. B. v. Swinerton & Walberg Co.; 9 Cir., 202 F. 2d 511, cert. denied 346 U. S. 814; N. L. R. B. v. International Association of Heat and Frost Insulators, etc., 1 Cir., 261 F. 2d 347; Eichleay Corp. v. N. L. R. B., 3 Cir., 206 F. 2d 799; cf. Morrison-Knudsen Company, Inc., etc. v. N. L. R. B., 2 Cir., March 2, 1960, — F. 2d

We conclude, accordingly, that the parties did not violate the Act by the mere execution and the maintenance of the collective bargaining contract.<sup>18</sup>

The Board also found that quite apart from the supposed illegality of the contract the respondents had in practice maintained and enforced closed-shop and preferential hiring conditions at the News and Journal through their apprenticeship and competency systems, which we will presently describe. The essence of its position is that respondent maintained a system whereby only Union members could obtain permanent mail room employment, and whereby such members were favored over nonmembers in the "shape-up" hiring for other jobs:

The employment practices thus impugned were substantially as follows. Full time employees, known as "regular situation holders," form the bulk of the mail room labor force and they are not required to "shape" for work, i.e., to be hired on a day-to-day basis. The record indicates, without apparent exception, that such employed are all both journeymen and Union members, although, for aught that appears, their Union membership antedated the passage of the Taft-Hartley Act. The foreman frequently exercises his hiring authority in order to both provide replacements for absent regular situation holders and increase the labor force when increases are needed. The first group to which he turns is that composed of men termed "regular. substitutes." These men are available daily to supplement the regular work force of any single publisher and although they are not guaranteed five work shifts per week they normally work that often. It appears that each of them is also both a journeyman and a Union member. The Union

Is Because of our holding herein, we need not pass upon the Fnion's claim that the Board's concession that the respondents entered into and administered the contract in good faith precludes findings of violations of §§ 8(a)(3) and 8(b)(2). As to this, each side invoked Radio Officers Union v. N. L. R. B., 347 U. S. 17.

"chapel" chairman, "maintains a priority list of these regular substitutes, whose priority is determined by the date on which they commence work with a particular employer, and that date is indicated by the deposit of their Union card with the chapel chairman. Regular substitutes are hired by the foreman in the order in which their names appear on this list.

If, as is quite often the case, the size of the day's newspaper requires the employment of additional mailers, the foreman next hires from men who shape the shop "regular situation holders" and "regular substitutes" from other newspapers, in preference to "other extras." The Board describes such "other extras" as "non union shapers" and the Union terms them "casuals without journeyman status." These conflicting descriptions point up the nub of the dispute. The record indicates that many of these "other extras," including the two whose complaints initiated these proceedings, are men engaged in full-time occupations outside the newspaper industry who shape either irregularly or regularly, but at infrequent intervals throughout the week. Thus ostensibly, at least, the hiring procedures are based upon nondiscriminatory contractual criteria, i.e., competency as evidenced by journeyman status, and seniority based upon length of employment as a journeyman with the hiring employer and as a journeyman elsewhere in the industry.20 And the respondents persuasively contend that thus to accord priority in the hire of extras to men who regularly work for the employer as wellas to men who have journeyman, status with other employers, is entirely consistent with lawful hiring based upon

<sup>&#</sup>x27;chapel' chairman is equivalent to a shop steward and each publisher's mail room constitutes a "chapel."

<sup>20</sup> However, the order of hire among regular situation holders and regular substitutes from other papers was first that of men who had not had five days work that week and next that of men who had already worked five days.

competency and legitimate employee qualifications quite apart from Union membership.

The Board, on the other hand, strongly urges that since outside Union men are always given shaping preference, even if they have never previously worked at the particular hiring shop, as against all nonunion shapers, including those who have shaped at that shop for many years, unlawful discrimination is proved. It insists that the apprentice-ship and competency systems are nothing but camouflage to conceal and perpetuate accomplished discrimination. We turn, therefore, to a consideration of these systems.

Two routes were open to a mail room employee who desired to achieve journeyman status—he could either complete an apprentice training program or he could pass a competency examination. While it is true that apprentices were hired by the foreman, 21 as we said above the contract did not place the hiring authority in the Union. Nor does the record indicate any discriminatory practices in the actual hiring of apprentices. 22 Section 20-b of the contract provided that the qualifying examination for prospective journeymen was to be given "by impartial examiners qualified to judge journeymen competency selected by the

<sup>21</sup> We note, however, that while under Section 20-b of the contract the foreman was to hire and discharge all employees, still Section 27-b provided that a Joint Apprenticeship Committee, composed of an equal number of Union and employer representatives, was to have jurisdiction over all provisions affecting apprentices and was to have control over and responsibility for the selection of apprentices.

The record shows that the Union has occasionally requested and received employer permission to shorten the prescribed six-year apprenticeship program. This permission was allegedly given on several occasions when an employer needed additional journeymen. In any event, all apprentices were required to pass the same competency examination as other applicants for journeyman's status, and under Section 27-b of the contract (see fn. 21, supra) any question affecting apprentices upon which the Joint Apprenticeship Committee could not agree was subject to arbitration.

parties hereto."23 The examinations were given, in fact, by a committee composed of Union officials and mail room foremen. The only concrete evidence of the manner in which this testing system operated is the incident which led to the filing of charges by Burton Randall, a non-union extra at the News.

In the spring of 1956 the News, along with other New York City newspaper publishers, concurred in a Unioninitiated plan which contemplated the promotion to "regular substitute" status of those extras (none of whom were apprentices) who had earned 15 vacation credits in 1954 and 1955. Such a vacation credit standing indicated that a man had averaged almost three days' work per week. the Union hoped that its members might perform the increased volume of mail room work which had become available in the New York mail rooms. The News accepted the plan and the proposed objective standard of 15 days'. vacation credits, allegedly because is recognized the need for additional "regular substitutes." It reasoned that the prospective selectees, who had demonstrated frequency of employment over a considerable period of time, would add the greatest available regularity, dependability and competency to the regular work force. Approximately sixty nonunion men shaped at the News. Of these thirty-one met the proposed standard and were made regular substitutes after they had each passed the journeyman's competency. examination. Thereafter, each of the new regular substitutes was hired prior to Randall, although he had shaped at the News for over ten years, which was longer than thirty of them. Randall's full-time outside occupation prevented him from shaping except on Friday and Saturday evenings but his work on these nights while regular was insufficient to give him the 15 days' vacation credit.

The Board found that as a result of these practices Randall, who continued to shape regularly on Friday and

<sup>28</sup> See fn. 5, supra.

Saturday evenings, worked later hours, performed more difficult work, and lost overtime pay. It also found that Randall was denied employment on one Sunday evening, as a result of a Union reprisal against him for his filing of unfair labor practice charges.

We find, however, a dearth of evidence either that a Union journeyman has ever been hired in preference (let alone, an unlawful preference) to a nonunion journeyman,<sup>24</sup> or that the qualifying standards for taking a competency examination are discriminatory. The record is barren of even the slightest hint that there has been discrimination in the conduct of the examinations.<sup>25</sup> Availability, depend-

<sup>24</sup> Record statements by Union foremen that they would always hire-"outside union men" in preference to "non-union extras" do not demonstrate discriminatory hiring practice in the absence of evidence that they or the Union ever committed, in fact, any discriminatory act in denying employment to a non-union journeyman. For aught that appears, these were mere predictions of what they would do if the situation ever arose. Local 553, International Brotherhood of Teamsters v. N. In R. B., 2 Cir., 266 F. 2d 552. Furthermore, on the issue of the motivation behind the hiring plan of extras, this testimony, in context, is of scant help, because (1) the expression "outside union men" is continually interchanged with that of "competency" and "journeyman," and (2) due to the lack of nonunion journeymen practically all journeymen were Union members. What is even more important, so "non-union extras" were journeymen and all "outside union men" were journeymen.

The only offered evidence as to the fate which would await a non-union man claiming competency who made application for employment as a journeyman, was Union testimony, here unchallenged, concerning past practices under a substantially identical contract between the Printers' Union. New York Typographical Union, No. 6, and the Publishers Association of New York City. Over fifty nonunion journeymen; claiming competency, were allegedly given the identical competency examination as that given apprentices, and while only twenty-six passed, none of those who failed complained of discrimination. Interestingly enough, all of the successful twenty-six applicants went to work prior to their admission into the Union, and while the Union application of one was rejected the remains at work in the trade. See also Evans v. International Typographical Union, supra, at 686-687.

ability and regularity of service, as well as mere competency, are valid nondiscriminatory considerations in determining the order of hire. The fact that one applicant is as competent as another, does not mean that the other may not properly be preferred on the basis of his other qualifications. And the fact that those achieving status as new "regular substitutes" subsequently become Union members and even indicated their willingness to do so prior to the adoption of the standard, does not indicate, at least on this record, that the standard, seemingly fair, was discriminatory in its effect. Randall admitted that he would have welcomed the opportunity to become a Union member, and for aught that appears in the record, so would the remaining extras who did not meet the established standard.

We conclude that the record does not warrant a finding that the hiring system in general, or the competency system in particular, by its discrimination against nonunion applicants, encouraged Union membership.

This conclusion disposes of Arrigale's charge against the Union. For that charge was based only on a claim of unlawful discrimination inherent in the hiring system. But Randall also charged, and the Board found, a specific act of discrimination which caused him loss of employment on one Sunday night. Concededly, Randall did not work on the night in question. And we should hesitate to sustain a finding based solely on Randall's contradicted testimony, that the foreman had told him that he had been instructed by the Union president to reduce Randall's standing on the list of casual shapers for that night. But there was more than this in the record. There was direct evidence, not contradicted we think, that Randall had long stood first on the list of casual shapers for Friday and Saturday nights and also on the Sunday night immediately preceding the Sunday night in question when, according to his direct testimony, for the first time several extras were put to

work ahead of him. We cannot say that it would be unreasonable to infer that this abrupt change in his position on the list was due to the fact that he had shortly before filed charges against the respondents, especially in the absence of any other satisfactory explanation for the change. On the whole, we think the finding of discrimination causing Randall loss of one night's employment was sufficiently supported in the record and constituted a violation of §§ 8(a)(4) and 8(b)(2).

We hold, therefore, that we must deny enforcement of the Board's order except so much of it as is based on the finding of unlawful discrimination against Randall which we have just sustained. However, since the exception covers so small a portion of the order, in the interest of clarity we will deny the petition for enforcement in toto, and leave it to the Board, if so advised, to enter an order consistent with our opinion. See Honolulu Star Bulletin v. N. L. R. B., supra.

Order set aside and case remanded.

### APPENDIX "B"

## Statutory Provisions Involved

# Sec. 2. When used in this Act-

- (3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and \* \* \* shall not include \* any individual employed as a supervisor, \* \* \*
  - (11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

### Sec. 8.

- (b) It shall be an unfair labor practice for a labor organization or its agents—
  - (1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;
  - (2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) or to discriminate against an employee

with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

- ployer, provided it is the representative of his employees subject to the provisions of section 9 (a).
- (d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession:
- Sec. 13. Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.
- Section 14. (a) Nothing herein shall-prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

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JAMES R. BROWNING, Clerk

No. 840

# In the Supreme Court of the United States

OCTOBER TERM, 1960

International Typographical Union, AFL-CIO, HAVERHILL Typographical Union No. 38, Wor-CESTER Typographical Union No. 165, PERSTONERS

NATIONAL LABOR RELATIONS BOARD

ON PATITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPRALE FOR THE PIRET CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR.

J. LER BANKER, Holletter General,

Department of Justice, Washington 15, D.O.

General Counted,
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Approvate General Countel,

Amistant General Counsel,

MELVIN POLLACE,

Vational Labor Balations Sours, Washington 25, D.C.

# In the Supreme Court of the United States

OCTOBER TERM, 1960

### No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, HAVERHILL TYPOGRAPHICAL UNION No. 38, Wor-CESTER TYPOGRAPHICAL UNION No. 165, PETITIONERS

# NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE PIRST CIRCUIT

## MEMORANDUM FOR THE MATIONAL LABOR RELATIONS BOARD

The petition presents, in a slightly different context, the same issues involved in National Labor Relations Board v. News Syndicate Company, Inc., No. 339, this Term. The questions presented are whether a union violates Section 8(b) (2) and (3) of the National Labor Relations Act, as amended, by insisting upon, and striking to secure: (1) a contract clause

<sup>&</sup>lt;sup>1</sup> Section 8(b) (2) makes it an unfair labor practice for a union "to cause or attempt to cause an employer to discriminate against an employee in violation of" Section 8(a) (3). Section 8(b) (3) makes it an unfair labor practice for a union "to refuse to bargain collectively with an employer."

which incorporates union working rules "not in conflict with " " federal or state law," but does not particularize what rules are excluded as illegal; and (2) a clause which vests exclusive control over hiring in a foreman required to be a union member." The court below predicated its conclusion that petitioners' efforts to obtain those clauses violated the Act on the premise that the clauses themselves were illegal in that they encouraged union membership in violation of Section 8(a)(3) of the Act. The Second Circuit in News Syndicate has reached precisely the opposite conclusion with respect to the same clauses, holding that they do not violate Section 8(a)(3). And see Honolulu Star-Bulletin v. National Labor Relations Board, 274 F. 2d 567 (C.A.D.C.).

In view of the conflict of decisions and the importance of the question, the Board has filed a petition for certiorari in the *News Syndicate* case, No. 339, this Term. Accordingly, the Government does not oppose the grant of the present petition.

The Board and the court below also found that the foreman clause was violative of Section 8(b)(1)(B) of the Act, which makes it an unfair labor practice for a union to restrain or coerce "an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances."

<sup>\*</sup> Section 8(a)(3) makes it an unfair labor practice for an employer "by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization."

National Labor Relations Board.

Respectfully submitted.

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**SEPTEMBER 1960.** 

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IN THE

# Supreme Court of the Anited States

October Term, 1960

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, HAVERHILL TYPOGRAPHICAL UNION No. 38, WORCES-TER TYPOGRAPHICAL UNION No. 165, Petitioners,

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Corflorari to the United States Court of Appeals for the First Circuit.

RIEF FOR PETITIONERS

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### IN THE

# Supreme Court of the United States

October Term, 1960

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, HAVERHILL TYPOGRAPHICAL UNION No. 38, WORCESTER TYPOGRAPHICAL UNION No. 165, Petitioners,

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Certiorari to the United States Court of Appeals for the First Circuit.

## BRIEF FOR PETITIONERS

## OPINIONS BELOW

The opinion of the Court of Appeals for the First Circuit is reported at 278 F. 2d 6. The Decision and Order of the National Labor Relations Board is reported at 123 NLRB 806.

### JURISDICTION

The decree of the Court of Appeals was entered on May 10, 1960. A petition for rehearing was denied without opinion on June 10, 1960. The petition for a writ of certiorari was filed on August 18, 1960, and granted on November 7, 1960, 364 U.S. 878 (R. 529).

### STATUTES INVOLVED

The case involves Sections 2(3), 2(11), 8(a)(3), 8(b)(1), 8(b)(2), 8(b)(3), 8(d), 9(a), 10(e), 13 and 14(a) of the National Labor Relations Act as amended (61 Stat. 136, 29 U.S.C. 451, et seq.), which are printed as Appendix "A" to the brief.

# QUESTIONS PRESENTED

1. Whether a contractual proposal made in the course of collective bargaining negotiations by a union that,

"The General Laws of the International Typographical Union, in effect at the time of execution of this agreement, not in conflict with federal or state law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract,"

and a strike to secure agreement on such proposal, violates Section 8(b) of the National Labor Relations Act as amended (61 Stat. 136; 29 U.S.C. § 151 et seq.).

2. Whether contractual proposals by a union that,

"The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union... The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement,"

and a strike to secure agreement on such proposals, violates Section 8(b) of the Act.

- 3. Whether the Order of the National Labor Relations Board, as modified by the Court below, is excessively broad within the rule of NLRB v. Express Publishing Co., 312 U.S. 426.\*
- 4. Whether the Board and the Court below properly held that the International Typographical Union was jointly responsible with two of its subordinate local unions for the alleged unfair labor practices.\*

#### STATEMENT

# A. Proceedings Before the Board

On separate charges filed by the Haverhill Gazette Company, Haverhill, Massachusetts, against Haverhill Typographical Union No. 38 and the International Typographical Union (hereinafter "ITU"), and by the Worcester Telegram Publishing Co., Worcester, Massachusetts, against Worcester Typographical Union No. 165, and the ITU, a consolidated hearing was held which, after the usual proceedings, resulted in the Decision and Order of the Board of April 17, 1959 of which review was sought in the Court below.

As the Court below noted (R. 515), "There is little dispute over the facts". At Worcester, Local 165, which had represented the composing room employees of the employer for some 70 years, sought from 1954 to 1957 to achieve an acceptable agreement; failing in this objective, its members went on strike in November, 1957. The course of the negotiations is set forth in R. 424-435. At Haverhill, Local 38, which likewise represented the composing room employees, had not had an agreement with the Company since 1947. In December, 1956, that Local presented proposals for an

<sup>\*</sup>Questions 3 and 4 are present here pursuant to footnote 1 of the petition, pp. 2-3.

agreement; failing to achieve a satisfactory settlement, its members too went on strike in November, 1957. The course of these negotiations is set forth in R. 435-443.

In both cases the union and the employer were apart on a great many issues, including wages and other economic matters about which no legal question was ever raised. (R. 73, 123-127, 205; 434, 442). The record is clear, and the Board found, that the unions were honestly desirous of obtaining contracts. (R. 456). The Board, however, viewed the strikes exclusively in terms of the jurisdiction clause, the apprenticeship and seniority "systems", and the Laws and foreman clauses, set forth above under "Questions Presented". Only the Laws and foreman clauses are now before this Court.

With respect to the Laws clause, the critical finding of the Trial Examiner, which was adopted by the Board, was that "there is no evidence in the record remotely suggesting that the Respondents (the Unions) were not seeking to include all the general laws, including those found unlawful herein, in the proposed contracts" (R. 455), despite the plain language of the clause which would exclude any General Laws "in conflict with federal or state law." Relying on certain decisions of the Second Circuit, stemming from Red Star Express Lines v. NLRB, 196 F. 2d 78, 81, it was further held that "a 'savings clause' of this general character is ineffective to eliminate the illegal provisions of the General Laws" (id.).

The Trial Examiner, in findings which were accepted by the Board, held that the foreman clauses

The history of these negotiations constitutes the major portion of the evidence. The record, however, also contains testimony and exhibits regarding the origin, meaning and lawful application of the proposals challenged in the complaint. (R. 94-100, 254-345, 389-394).

violated Sections 8(b)(1)(B), 8(b)(2) and 8(b)(3) of the Act. As the Court below noted, "The reasoning by which the trial examiner and the Board reached. this conclusion is fragmentary and far front clear" (R. 521). Chief reliance was placed on the Board's decision in Enterprise Industrial Piping Company, 117 NLRB 995, which the Trial Examiner characterized as holding that "where employers entrust their hiring to foremen who are members of the union and bound by its laws, they in effect agree with the union. through the foremen who are agents of employers and the union, to operate under a closed shop arrangement, which is prohibited by the Act': (R. 449, n. 6). Also relied on was the decision of the Court of Appeals for the Seventh Circuit in American Newspaper Publishers Association v. NLRB, 193 F. 2d 782 (1951), cert. den. 344 U. S. 816.

The Board additionally reversed (R. 481, n. 2) the finding of the Trial Examiner (R. 452-454) that the unions' demands for apprenticeship and priority "systems" did not violate Section 8(b)(2) of the It "found it, unnecessary to pass upon" the finding that the strike for the jurisdiction clause violated Section 8(b)(2), but did find that the strike for the Laws and foremen clauses violated that Section (R. 481, n. 2). It sustained the finding (R. 455-456) that by demanding the jurisdiction, Laws and foremen clauses the petitioners had refused to bargain collectively within the meaning of Section 8(b) It approved (R. 481, 483) the finding of the Trial Examiner (R. 459, 461) that the ITU was jointly responsible with the local unions for the unfair labor practices.

The Board's Order restrained the Respondents from insisting upon "acceptance of the jurisdiction, foreman, and general laws clauses" (R. 462, 464), or from engaging in strike action for the "purpose of forcing [the employer] to execute an agreement requiring membership in the International Typographical Union as a condition of employment" (id.), or from "restraining [the employer] in the selection of its representatives for the purpose of collective bargaining or the adjustment of grievances" (id.); affirmatively ordered the Respondents to bargain collectively, and directed the posting of notices.

### B. Proceedings in the Court Below

On petition for review, and the Board's cross-petition for enforcement, the Court below refused to enforce those portions of the Board's order dealing with the jurisdiction clause (R. 518-520, 527) and the apprenticeship and priority "systems".

With respect to the General Laws clause, the Court enforced the Board's holding. It first rejected the petitioners' claim that the clause did not import into the agreement any General Law under circumstances where observance of its terms would entail a violation of federal or state law by noting (R. 524, n. 13) that.

While the Court did not discuss the legality of the apprentice-ship and priority "systems" in its Opinion, its decree leaves no doubt that it refused to enforce these holdings. It modified the form of Order adopted by the Board to outlaw only practices "persuasively related to" those found to be unlawful; that is, the "laws" and foremen clauses (id.), and amended the form of the notice to be posted (See R. 466, 468) by likewise substituting the words "persuasively related to" (the practices found to be unlawful) for the word "other" (R. 527).

"The unions insist that in this case the clause should be called an 'exclusionary clause'. We see no significant difference in the terminology to be employed. We are not deciding this case on an issue of semantics".

But it then promptly proceeded to decide that all General Laws were incorporated in the proposed agreement by stating (R. 524, n. 14) that,

"We perceive no reason why the coercive effect of the illegal clauses would be lessened if, as in this case, they are incorporated by reference into the contract, rather than written into the contract itself." (emphasis supplied)

The Court relied heavily on Red Star Express Lines v. NLRB, 196 F. 2d 78, 81 (CA 2) and NLRB v. Gaynor News Co., 197 F. 2d 719, 723 (CA 2) aff'd on other grounds, 347 U.S. 17, holding that where an agreement is unlawful on its face, a "savings clause" will not cure the defect, although conceaing that "The question is not free from doubt." (R. 525).

The Court below sustained the Board in holding the foreman proposals illegal. The Board had made no anding concerning the undisputed fact that these proposals specifically provided that "The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement." The Court (R. 521) stated that "The reasoning by which the trial examiner and the Board reached this conclusion [that these clauses were unlawful] is fragmentary and far from clear." Nevertheless the Court found a violation of Section 8 (b) (1) (B) on the ground that

"... by insisting that the foremen must be union members, the unions were restraining and goercing the employers in the selection of their representatives for grievance adjustment purposes. Not onlywould the clause as proposed by the unions limit the employer's choice of foremen to union members, but it would also give the unions power to force the discharge or demotion of a foreman by expelling him from the union." (R. 521-22)

In finding a violation of § 8 (b) (2) the Court did not follow the reasoning of the Trial Examiner and the Board that these clauses would "in effect" constitute an agreement to operate "under a closed shop arrangement" (R. 449). Rather, it held (R. 522) that,

"the effect of the clause would be to cause the employers to discriminate in favor of union men in appointing their foremen, thereby encouraging aspirants for that position to join the anion".

Despite the finding of the Trial Examiner, which was not disturbed by the Board or the Court, that ". . . the Respondents . . . were desirous of securing contracts with the Companies" (R. 456), the Court sustained the holding that in making allegedly unlawful demands the unions refused to bargain in good faith as required by Sections 8(b)(3) and 8(d) of the Act. (R. 522). The Court described the union demands as "clauses of honestly disputable validity at the time of the union action" (R. 525), but held that the unions were "acting at their peril" (R. 525-26) and that "to hold that good faith is a defense to the charge of refusal to bargain when the contract provision is illegal per se is to put a premium on ignorance of the law or blind intransigency" (R. 522-23). The Court held that the ITU was jointly responsible with the local unions for the asserted unfair labor practices (R. 526), and,

holding that the Board's order was too broad, modified it by striking the words "in any manner" from the Order and enjoining only the specific practices found to be unlawful, "or practices persuasively related thereto" (R. 526-27).

### SUMMARY OF ARGUMENT

Petitioners contend that the "General Laws" clause is entirely lawful because of the proviso which excludes from the Unions' proposals any General Law "in conflict with federal ... law ...". While certain of the General Laws contemplate closed-shop conditions, such laws have an entirely valid field of application in enterprises not affecting interstate commerce and in Canada. The proviso makes it clear that in other circumstances any laws requiring closed shop conditions are not to be applied, and the General Laws themselves, in Article XIV, expressly so state.

The contract proposals here in issue contained no union security clause of any kind. They made it clear on their face that competence and experience, not union membership or nonmembership, were the sole criteria for hire. Thus any General Law calling for closed shop conditions would be in conflict, not only with federal law, but with the agreement itself, as set forth in the proviso. The Board in this case reached its decision by conveniently ignoring the proviso altogether. It has urged that all General Laws are "incorporated by reference" in the agreement, despite the proviso. This is simply untrue.

Though the language of the General Laws clause has been in use since passage of the Taft-Hartley Act in 1947, to the full knowledge of the Board and the General Counsel, it has not during that period been alleged

or proven that any General Law has in fact been unlawfully applied. As will appear, the Board's principal argument has been that this clause creates "uncertainty" in the minds of employees. But collective agreements of necessity contain large areas of uncertainty, and uncertainty is not "restraint or coercion"! within the meaning of Section 8(b)(1)(A), nor does it "cause" or "attempt to cause" discrimination within the meaning of Section 8(b)(2). The parties to collective agreements cannot con eivably write them with such specificity as to negative all possibility of and wful conduct under them: While it is dubious whether contract language can ever be said to "restrain or coerce". or to "cause or attempt to cause" discrimination, the farthest conceivable reach of the Board's power is to state whether a proposed agreement contains language clearly violative of the Act. Since the proposals here made are entirely lawful on their face, the line of authorities represented by Red Star Express Lines v. NLRB, 196 F. 2d 78 (CA 2), holding that a "savings clause" is inadequate to cure a contract illegal on its face has no application, for here there is no illegal union security clause to save, and hence no savings clause is necessary in the agreement. The decisions of the Court of Appeals for the District of Columbia in Honolulu Star-Bulletin v. NLRB, 274 F. 2d 567 (1959) and of the Court of Appeals for the Second Circuit in NLRB v. News Syndicate Co., et al., 279 F. 2d 323, cert. granted, 364 U.S. 877. No. 339, this Term, so holding, are correct.

The holdings of the Board and the Court below that the demand for the foremen clauses violated the Act are erroneous. Section 8(b)(1)(B) was not violated, for there was no dispute as to who the foremen should be, and hence the petitioners were not seeking to influence, let alone "restrain or coerce", the employers in their "selection" of a foreman. Congress did not outlaw a strike for a contract clause which it expressly made lawful in Sections 2(3), 2(11) and 14(a) of the Act. Section 8(b)(2) was not violated, for the foreman is the agent of the employer, not of the Union, and is required to observe the terms of the applicable collective bargaining agreement rather than union rules, except such rules as may lawfully be enforced. The mere potential of discrimination which inheres in the hiring of a union (or a nonunion) foreman does not violate the Act,

In demanding these two clauses, the petitioners did not refuse to bargain collectively. The sole ground for so holding is that they are unlawful. A dispute in the course of collective bargaining negotiations concerning the legality of proposed clauses does not show a lack of "good faith". In any event, the petitioners here had the strongest grounds for a reasonable belief that the demanded clauses were lawful. This Court has repeatedly reminded the Board that it is not its function to supervise the terms of negotiated agreements; in this case, despite these admonitions, the Board seeks to go the further step of supervising mere proposals put forward in good faith in the course of negotiations.

The Board's Order, as enforced by the Court below, would restrain the petitioners from demanding the Laws clause in any form. But the great-bulk of the General Laws are lawful and; indeed, have not been challenged in any proceeding. The Board therefore seeks to eliminate many practices which have not been the subject of a complaint, hearing, finding or Court review, and to throw out lawful conduct as well as that found to be unlawful. This the Board may not do.

NLRB v. Express Publishing Co., 312 U.S. 426 (1941). Its order with respect to the foreman clause is equally improper.

The Board and the Court below erred in holding that the ITU was, along with its locals, the "exclusive bargaining representative of the employees" and thus jointly responsible with its two local unions for the practices found to be unlawful.

#### ARGUMENT

### l. The "General Laws" Clause Is Valid

This clause, as proposed by the local unions, reads (R. 351, 398),

"The General Laws of the International Typographical Union, in effect at the time of execution of this agreement," not in conflict with federal or state law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract".

In another proceeding, Matter of International Typographical Union, 86 NLRB 951 (1949), at page 970, a Trial Examiner found that,

"The General Laws are traceable in their origin to the original custom of the Union—prevailing generally before collective bargaining contracts were first negotiated about 1886—of adopting scales of prices and operating rules of conduct, setting the conditions on which union members agreed to sell their services. . . . The requirements of the General Laws are considered by the ITU to represent the floor upon which the structure of collective bargaining is erected. Locals bargain for wages and economic conditions not covered by the laws, or only partially covered; and where minimum conditions are prescribed, they may bargain

At Haverhill, the phrase read "effective January 1, 1956".

for more than the minimum. But they may not, without contravening the "laws", bargain away what the "laws" provide. General Laws are adopted, and may be amended, at ITU conventions, taking effect at the beginning of the succeeding year. In practice such laws are adopted only after the subject matter covered has won general acceptance in the industry, largely as a result of collective bargaining by the larger locals. Their adoption into the General Laws is designed to bring stragglers into line, to stabilize working conditions in the industry, and to achieve industry-wide standardization considered desirable in view of the mobility of printers as a craft".

The General Laws thus represent the benchmarks of trade unionism in this industry for over a century. (R. 274). They are the means by which the members of the ITU, through elected convention delegates, or through direct membership referendum vote, may exercise a voice in determining their conditions of labor, and they have thus fostered the high degree of internal democracy which observers attribute to the ITU.

It is not disputed that certain of the General Laws, which antedate the passage of the Taft-Hartley Act,

<sup>&#</sup>x27;A valuable discussion of the origins and early development of the General Laws is to be found in Professor George E. Barnett, The Printers; A Study in American Trade Unionism, Amer. Econ. Ass'n Quarterly, 3rd Series. v. 10, October, 1909. See particularly pp. 32, 37, 209, and passin elsewhere.

See Lipset, Trow and Coleman, Union Democracy, pp. 3-4 (1956); Magrath, Democracy in Overalls, 12 Industrial and Labor Relations Review 501, 511-15 (July, 1959); Bromwich, Union Constitutions, A Report to the Fund for the Republic, July, 1959, p. 39.

contemplate the existence of closed shop conditions. But these General Daws have a wholly valid field of application in enterprises not affecting interstate commerce, of which there are many in the printing industry, and in Canada, where the ITU has many locals and where the Taft-Hartley Act has no application. (R. 278, 325). Immediately after passage of the Taft-Hartley Act, the General Daws clause was revised to insert the language "not in conflict with federal or state law" (R. 274, 280; Matter of ITU, 86 NLRB 951, 1003). The legality of this clause therefore comes down to the single issue whether this proviso is sufficient. We say that it is.

There is in this record no evidence whatsoever of "restraint or coercion" on the part of the petitioners; indeed, the allegations of the complaint so charging were dismissed (R. 465). Rather obviously, the failure to obtain a desired agreement cannot be said to "eause" discrimination within the meaning of Section 8 (b) (2). The Board is therefore relegated to the position that the contract proposals here in issue were an "attempt" to cause discrimination within the meaning of that section. But, as Mr. Justice Holmes pointed out in Commonwealth v. Peaslee, 177 Mass. 267, 59 N. E. 55, 66,

"Preparation is not an attempt. It is a question of degree. If the preparation comes very near to

Nevertheless, we confess that we are at a loss to understand the inclusion of some in the General Counsel's complaints; for example, Article 1, Section 5 (R. 6, 45), forbidding apprentices to change employers without the written consent of the president of the ITU local union, is a sensible regulation designed to prevent the "pirating" of promising apprentices by other employers, which may interfere with their training, and has no relationship of any kind to union membership or non-membership.

the accomplishment of the act, the intent to complete it renders the crime so probable that the act will be a misdemeanor, although there is still a locus poenitentiae, in the need of a further exertion of the will to complete the crime."

To the same effect see Swift & Co. v. United States, 196 U. S. 375, 396; United States v. Coplon, 185 F. 2d-629, 633 (CA2, L. Hand, J.); Commonwealth v. Kennedy, 170 Mass. 18, 20; 48 N. E. 77. Can it properly be said that a proposal made in the course of bargaining negotiations comes "very near to" actual discrimination?

It is equally clear that the concept of "attempt" involves an element of motive; the taking of steps toward an ultimate, desired goal. Swift & Co. v. United States, supra. Since NLRB v. Jones & Laughlin Steel Co., 301 U. S. 1 (1937) it has not been doubted that "motive" is an essential element of "discrimination". The record here is barren of any evidence that the petitioners sought, proximately or ultimately, to cause discrimination; the evidence is overwhelmingly to the contrary (R. 156-58, 161-63, 204, 268-69, 338-345). Without proof of an improper motive, the finding of "attempt" must fall.

Manifestly, it cannot be asserted that a clause which specifically excludes from the agreement any General Law, "in conflict with federal or state law" is unlawful on its face. Rather, the Board has fried a variety of indirect approaches to reach the result that such an agreement is unlawful.

The Congress 'presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.' Morissette v. United States, 342 (1.8.246,263 (1952).

The first is the most convenient—and most inexcusable—formula, followed in this case, of simply ignoring the 'proviso.' The finding of the Trial Examiner, adopted by the Board, that "there is no evidence in the record remotely suggesting that the Respondents were not seeking to incorporate all the general laws, including those found unlawful herein, in the proposed contracts" (R. 425) blithely ignores the plain meaning of clear language and undisputed testimony." We do not feel that it merits further discussion,

The second technique is that of asserting that, despite the plain language of the proviso, its intention is to incorporate all General Laws by reference, rather than to exclude from the agreement those General Laws

This was also made clear in the course of these negotiations. The Union at Worcester made clear their willingness to negotiate into the agreement any matter covered by the General Laws (R. 215, 216, 234-235). At Haverhill as well, the Union negotiators made it clear that "any laws that are in violation of Taft-Hartley are suspended" (R. 88). A representative of the New England Publishers Association, who participated in the Haverhill negotiations, testified that no problem concerning this matter had arisen in his experience in New England (R. 89).

<sup>&</sup>lt;sup>8</sup> This was also the technique of the complaints. (R. 4, 8; 13-14, 18).

The 1948 Convention of the ITU approved the action of its Executive Council in making it "clear generally that only those union laws not in violation of the Tait-Hartley Act... are recognized as valid by not asking that any matter be governed by union laws which are in violation of any Federal.... law" (R. 280). In 1953 an amendment to the General Laws was adopted which suspends the observance or enforcement of any General Law where such action would "be contrary to public law" (R. 281). The ITU has so administered this clause (R. 284, 389-94). Employers under such form of agreement could assert that application of a particular General Law was unlawful (R. 284).

in circumstances where enforcement might lead to a violation of Federal law. This approach was accepted by the Court below. It first attempted to evade the issue by treating this question of contract interpretation as an "issue of semantics" (R. 524, n. 13). But it then went on to hold (R. 524, n. 14) that,

"We perceive no reason why the coercive effect of the illegal clauses would be lessened if, as in this case, they are incorporated by reference into the contract, rather than written into the contract itself," (emphasis supplied).

Thus the Board and the Court below distort the meaning of clear language to achieve a reading directly the opposite of that which was intended, concerning which the testimony is entirely undisputed. In NLRB v. News Syndicate Co. et al., 279 F. 2d 323 cert. granted, 364 U.S. 877, No. 339, this Term, the Second Circuit held that the "real thrust" of the opinion of the Court of Appeals for the District of Columbia in Honolulu Star-Bulletin Ltd. et al. v. NLRB, 274 F. 2d 56710 was

"its rejection of the same incorporation by reference argument here urged. Indeed, in an earlier case before the Board, a trial examiner found similar contractual provisions valid and he rejected the 'incorporation by reference theory' here advanced. The Board, at that time, did not object to his ruling. Matter of Kansas City Star Co., 119 NLRB 972." 279 F. 2d 323 at 328, n. 10.

Chief Judge Prettyman, in Honolulu Star-Bulletin, succinctly observed,

<sup>10</sup> These cases will be referred to hereinafter as the News Syndicate and Honolulu Star-Bulletin cases respectively. The Board did not seek certiorari in the Honolulu Star-Bulletin case.

"Section 24 (c), [the laws clause] as shown by the above quotation, clearly provided that the General Laws of the Union in conflict with either Federal law or the contract itself were not included in the contract. A closed-shop provision would have been in conflict with the federal law and also in conflict with Section 2(a) of the contract. Any such provision in the General Laws was excepted from inclusion in this contract. We do not see how language could have been clearer". 274 F. 2d at 569.

A closely related Board effort to invalidate an agreement lawful on its face was recently repudiated in Perry Coal Co. v. NLRB, 47 LRRM 2208, 2211 (CA7. December 2, 1960). There, the Court emphatically reaffirmed its decision in Lewis v. Quality Coal Corp.; 270 F. 24 40, (CA 7) cert. denied, 361 U.S. 929, which had distinguished the Red Star line of cases and sustained the legality of a contract clause reading, "it is further agreed that as a condition of employment all employees shall be, or become, members of the United Mine Workers to the extent and in the manner permitted by law". 270 F. 2d at 143 (Court's emphasis). Accord: Fentress Coal and Coke Co. v. Lewis, 264 F. 2d 134 (CA 6) aff'd 160 F. Supp. 221 (MD Tenn.); Lewis v. Hixson, 174 F. Supp. 241 (W.D Ark.); and Lewis v. Kerns, 175 F. Supp. 115 (SD Ind.).

The final approach was also accepted by the Court below. Relying on the line of cases in the Second Circuit holding that a "savings clause" is insufficient to cure an agreement otherwise unlawful on its face, principally Red Star Express Lines v. NLRB, 196 F. 2d 78 (1952), the "not in conflict with . . . law" proviso to the Laws clause was equated with a "savings clause". The Court below (R. 524) cited those cases as authority for the proposition that

"... the question is not only whether under principles of contract law a 'savings clause' addendum to a contract containing an illegal union security clause would contractually negative the illegal union security clause, but whether it would have the effect of preventing the coercion that would otherwise follow"

from the inclusion of the illegal clause in the contract. It cited (R. 525) the language of the Second Circuit that "The vague language of the addendum would not help the ordinary employee to understand that the union security clause was no longer binding".

These formulations are treacherous. The basic is sue, we suggest, is the identity of the tribunal which is to decide the legality of an agreement. Traditionally, this task has rested with the parties and their legal advisers, administrative tribunals, and the courts; not with laymen. It is a repudiation of the professional competence of those trained in the law to suggest that they are not better able to make these judgments than those who lack such training. Yet it is now suggested that the "ordinary employee" is to be the judge. Judge Learned Hand, dissenting in Red Star Express, saw this quite clearly:

"... I cannot agree, if, although they drew their contracts in an honest effort to conform to the law, they drew them so inartificially that the meaning was not clear. Everyone will agree that the inept draughting of a contract cannot be an unfair labor practice". 196 F. 2d 78 at 81-82.

Chief Judge Prettyman, in Honolulu Star-Bulletin, was even more explicit. He pointed out that

"... the Board says that, since the contract mentions the Rules of the Union, employees would have the impression that the Rules were incorporated in their entirety, and would not differentiate those

contrary to law or to the contract. From that premise the Board reasons that the contract is per se a closed-shop contract. This conclusion is a complete non sequitur. An erroneous impression of plain terms does not change the meaning of the plain terms. "Furthermore, assumptions that emplovees will not understand a lawful contract cannot be the basis for holding the contract illegal. What would be the justification for emphatic insistence upon formal collective bargaining as to terms of employment, if the conduct of the parties thereafter is to be judged by speculative, uninformed impressions of those terms instead of by the terms themselves as hammered out at the negotiation table?" 274 F. 2d at 570. (emphasis supplied).

· We particularly underscore the word "speculative" in the above quotation. The "ordinary employees" who the Board urges are now to decide the legality of contractual language are non-existent, since they are to be found only in the Board's mind. They can hear no testimony, read no briefs, render no judgment. They can be endowed with any qualities the Board may think appropriate, such as the inability to understand the plain meaning of clear language and a morbid suspicion bordering on paranoia. Even Franz Kafka has never postulated so surrealist a jurisprudence: that the conduct of the citizen is to be judged by a nonexistent, unreachable, tribunal. This is a deus ex machina, contrived solely to bridge the gulf between an agreement lawful on its face and the Board's anxiety to find the contract unlawful."

<sup>&</sup>lt;sup>11</sup> This Court's careful consideration of the reach of Section 8(b)(1)(A) in NLRB v. Drivers Local Union, 362 U.S. 274, 281, 292 (1960) at last Term makes it appropriate to inquire whether contractual language can ever violate the Act. Under the doctrine

That this is mere speculation on the part of the Board is demonstrated by the fact that the Board has never alleged or found that any General Law has ever been illegally applied under this form of agreement (R. 99), although it has been in use, to the Board's knowledge, since 1948 [see Matter of ITU, 86 NLRB 951, at pp. 1002-1006, 1017-1020; Evans v. ITU, 81 F. Supp. 675, 686 (ND Ind.)]. Moreover, in Honolulu Star-Bulletin, 274 F. 2d at 569, and News Syndicate, 279 F. 2d at 331-333, the Courts found that practices under such agreements had been lawful. Even under the Wagner

of that case, such language cannot be said to "restrain or coerce" employees within the meaning of that Section. Accontract cannot, until some action is taken under it. "cause" discrimination within the meaning of Section 8 (b) (2), and if and when such action is taken, the statutory protections are available. (But cf. National Maritime Union, 78 NLRB 971, enf'd 175 F. 2d. 686, (CA 2), cert. den., 338 U.S. 954. With all due respect to an exemplary opinion, we suggest that Judge Hincks spoke elliptically in News Syndicate, in stating that the "test is whether the natural and foresceable consequence of the language adopted is to encourage union membership." 279 F. 2d at 328. The making of a collective agreement, and any terms favorable to employees therein contained, rather obviously encourage union membership. The first test must still be whether there has been "discrimination," within the meaning of Section 8 (a) (3), and hence of Section 8 (b) (2). Radio Officers v. NLRB, 347 U.S. 17, 42-44 and see the able discussion in Pittsburgh-Des Moines Steel Co. v. NLRB, 47 LRRM 2135 at pp. 2139-2141 (CA9, Nov. 15, 1960).

The "terms themselves as hammered out at the bargaining table." not "The natural and foreseeable consequence." is in any event the better criterion of judgment.

The General Laws have a dual aspect. From one point of view, they are work rules, governing relationships with employers. From another, they are; as noted in *Matter of ITU*, 86 NLRB 951; 970, "the conditions on which union members agreed to sell their services," and hence constitute a compact among the members "with respect to the acquisition or retention of membership."

Act this Court held that "substantial evidence is more than a scintilla, and must do more than raise a suspicion of the existence of the fact to be established". NLRB v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300. See also Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229. The amendments to the Act evinced a purpose to enlarge the scope of review. Universal Camera Corp. v. NLRB, 340 U.S. 474 (1950). As the Sixth Circuit has said, \$\( 10(e) \) was "designed to eliminate the wholesale use of hearsay, the drawing of expert inferences not based upon evidence, and the consideration of only one part or one side of the case." Pittsburgh S.S. Co. v. NLRB, 180 F. 2d 731, 733, affirmed, 340 U.S. 498. Among the more recent opinions chiding the Board for continuing to decide on speculation and suspicion is Morrison-Knudsen Co. v. NLRB. 276 F. 2d 63, 73 (CA 9).

But, it is asserted, such agreements leave employees "confused" or "uncertain" or impose on them an "onerous burden" to know exactly what the agreement provides. This Court, in *United Steelworkers* v. Warrior and Gulf Navigation Co., 363 U. S. 574, 5782 82 discussed at length the reasons why collective agreements of necessity confain large areas of uncertainty, and why provisions for arbitrating disputes are there-

in the ITU as set forth in Section 8(b) (1) (A) of the Act. (R., 330). Insofar as the latter aspect is concerned, they are removed from Board scrutiny. 93 Cong. Rec. 4398-4402, 2 Legislative History of the Labor-Management Relations Act 1139-1143, (hereinafter acted as "Leg. Hist."). International Association of Machinists v. Gonzales, 356 U.S. 617, 620; Matter of International Typographical Union, 86 NLRB 951, 955-957, aff'd 193 F. 2d 782, 800 (CA7); NLRB v. Amalgamated Local 286, etc., 222 F. 95, 97-98 (CA7). The exact reach of this proviso can best be explored when, and if, the Board asserts that some General Law has been unlawfully applied.

fore essential. To leave an employee in an uncertain frame of mind does not "restrain or coerce" him, nor does it "discriminate" against him. Indeed, the Board itself régularly makes use of the same short-hand device. Its usual form of notice directs employers or unions not to discriminate "except to the extent permitted by Section 8 (a) (3)" of the Act. In this single phrase, it subsumes the decisional law dealing with causes for discharge, dual unionism, tender of dues, escape provisions, check-off arrangements, union security clauses, fines and assessments and the myriad other subject matters dealt with in over 120 volumes of reports. It has shown no concern for the "onerous burden" this places on employees in determining what the notice in fact means. As the Court of Appeals for the District of Columbia said in Honolulu Star-Bulletin.

"... the Board's language in its own order demonstrates the inevitability of some uncertainty and confusion in this general area. The Board twice, in the 'Notice to All Employees' which it required to be posted, directs the company to recite an abjuration of certain activities 'except to the extent permitted by Section 8 (a) (3) of the Act.' Counsel pointedly queries whether the latter quoted expression is less confusing than the phrase 'not in conflict with federal ... law'. In this connection we are led to inquire: What could be more confusing to rank-and-file employees than an official ruling that a contract which specifically says they need not be members of a union means that they must be members?" 274 F. 2d at 570.

Manifestly, the Board is attempting to lay down a rule that a offective agreement which does not spell out in full detail all matters which may arise, in a manner consistent with law and Board decisions (presumably with loose-leaf supplements as Board decisions

change existing law), is per se invalid. This must be done with sufficient precision so that not only the parties, and the Board, and the Courts, will have no doubts, but in such manner that the most obtuse and illiterate employee will be clear, and it is the Board and the Board alone which can read his mind. This is not expertise; it is an asserted clairvoyance. It is a burden collective bargaining cannot bear, for there is no possible way in which the parties to agreements can anticipate what the Board may read into the mind of hypothetical employees.

It is, in any event, a will o' the wisp search. No matter what its terms, any agreement can be illegally administered; for example, an agreement granting vacations with pay would, of course, be unlawfully applied if these benefits are extended only to union members." And while there is a presumption that the citizen knows the law, this has never been pushed so far as to require him to state it correctly, under penalties if he errs. Cf. Lambert v. California, 355 U.S. 225, 228. As Judge Hincks noted in News Syndicate, at page 330, "In the absence of provisions calling explicitly for illegal conduct, the contract cannot be held illegal be-

<sup>13</sup> In its brief in the Honolulu Star-Bulletin case, the Board said, "Clearly, if this guarantee [Section 7] is to be meaningful, employers and unions must so word their collective bargaining agreements that employees will know with certainty if union membership is required to hold a job." Brief for Respondent, CADC No. 15, 044 at p. 17.

If the present course of Board decisions is followed, we may anticipate a ruling that "The clause granting vacations with pay is clearly unlawful since it does not expressly provide that these benefits are to be extended equally to union and non-union men. In any event, vacations with pay clearly encourage union membership and are therefore illegal per se. Radio Officers v. NLRB, etc...."

cause it failed affirmatively to disclaim all illegal objectives. NLRB v. Mountain Pacific Chapter . . . 270 F. 2d 425, at 431".

Furthermore, such specificity is quite impossible of achievement. In this case, the complaints (R. 5, 15) attacked the contract provisions and the General Laws dealing with "unfair goods." The petitioners defended them. While the case was in litigation, this Court recounted at length the "checkered career" of this issue, in Carpenters' Union v. NLRB, 357 U. S. 93, 101-104 (1958) and held such clauses lawful. This attack was thereupon quietly dropped. It is true that from 1947 to 1958 the "ordinary employee" was uncertainwhether this clause might be lawfully applied; so were the parties, the Board and the courts. Is it now a condition of maintaining lawful agreements that the parties correctly apticipate future decisions?

The impossibility of avoiding uncertainty in this area is best illustrated by the utter confusion of the personnel of the Board. We attach hereto as Appendix "B" a tabulation, setting forth the sections of the General Laws which have been attacked at various stages of the numerous cases in which the Board has required the ITU to litigate and relitigate these issues. It will be observed that their number. varies from none to thirty-seven (with a caveat that this does not exhaust the list) and that no two agree. Singled out for special attention, for example, has been Article I. Section 1, of the General Laws, which provides that apprentices must prove to the satisfaction of the local union that they are at least sixteen years old when they begin work. In Alpertv. ITU, et al., 161 F. Supp., 427 (DC Mass., 1958) this rule, obviously designed to prevent the exploitation of child labor, was attacked as unlawful on the

ground that "it is not properly part of a collective bargaining contract fixing terms and conditions of employment". Included in the attack have been the provisions of Article XIV<sup>16</sup> that the operation of any General Law is suspended in circumstances in which its enforcement would entail a violation of Federal or State law. (R. 328).

Even if we accept the Board's premises in toto, a violation of the Act is still not made out, for we assert that "foreseeable employee reaction" to this agreement, even if the Board's guessing-game theory be adopted, would be that it is entirely lawful. The issue in this case is not, as it was in Red Star Express, supra, whether a "savings clause" removes the coercive effect of an unlawful union-security provision; it is

<sup>&</sup>lt;sup>18</sup> Quoted from "Petitioner's (General Counsel's) Comments on Alleged Revisions of ITU General Laws", filed in that case, page 2.

<sup>16</sup> See Joint Appendix in Honolulu Star-Bulletin v. NLRB, CADC, No. 15,044, p. 91.

<sup>17</sup> The phrase is the Board's in its petition for certiorari in News Syndicate, No. 339, this Term p. 11.

thority for the proposition for which the Board cites them. In each, a vague savings clause purporting to salvage as much union security as possible was held not to legalize a union security clause invalid on its face. There is not here the problem, present in those cases, of negating "the coercion that would follow from the renewal of (an earlier illegal union-security agreement)", Red Star Express, 196 F 2d at p. 81, since there were here no earlier illegal union security agreements. Even the Board, in some cases, has stopped short of the "incorporation by reference" technique urged on the Courts of Appeals. See Zangerle Peterson Co., 123 NLRB 1027, 1028; American Dyewood Co., 99 NLRB 78, 79; New Orleans Laundry, Inc., 100 NLRB 966, 967-68; Keystone Coat, Apron & Towel Supply Co., 121 NLRB 880.

whether the union's proposals in fact, contained such clauses. They contained no union security provisions whatever. The Worcester proposal, in this respect identical with that at Haverhill, stated in Article 1, Section 2 (R. 347) that all composing room work was to be done only by journeymen and apprentices. Article 1, Section 6, (R. 349) defined journeymen solely in terms of competence and experience, and without reference to union membership or non-membership. It is a standard that "is tied not to union membership but to [non-discriminatory] competency qualifications." Kansas City Star Co., 119 NLRB 972, 986. See also News Syndicate at 331-334. The testimony is uncontradicted that "journeyman" does not mean "union member". (R. 267). The agreement thus makes clear on its face that competency and experience alone, and not union membership or nonmembership, are requirements for employment. Only an irrationally suspicious person would look further.

And if such an employee did, his fears would still be assuaged. Insofar as the Laws clause is concerned, no literate employee could overlook, as the Trial Examiner and the Board here did, the existence of the "not in conflict with federal or State law" proviso. And if the employee were still not at ease, his reading of the General Laws would bring him to Article XIV, stating that "in circumstances in which the enforcement or observance of provisions of the General Laws would be contrary to public law, they are suspended so long as such public law remains in effect." What evil suspicions the Board must attribute to American workers to find that despite these reassurances these contract proposals would "restrain or coerce"!

The form of Order adopted by the Board, and enforced by the Court below, has an illuminating substantive aspect. It will be observed that that Order forbids ginsistence upon acceptance of the Respondent Union's . . . general laws clauses . . . " (R. 482, 483). As shown in Appendix "B", however, the great bulk of the General Laws have not been attacked in any proceeding. In Honolulu Star-Bulletin and News Syndicate, the Board entered an Order directing that the Union notify the employer, the foreman, and the employees, which of the General Laws were to be set. aside (without specifying which), thus leaving us the perhaps over-optimistic hope that some might still lawfully be applied. Here everything goes out. We would surmise that the reason for this must be that the Board here was dealing only with a contract proposal, and not, as in News Syndicate, with an executed agreement. It could not predict, therefore, which of the General Laws might be inoperative because the subject was one concerning which "provision is made in this contract." (R. 351, 398) and hence was driven to the expedient of outlawing the clause in its entirety. This patently illegal form of Order demonstrates some of the consequences that must inevitably flow from recognizing in the Board a power to ride herd, not alone on collective agreements, but on proposals put forward in the course of negotiations.

The holding that the making of a proposal in the course of bargaining negotiations constitutes an "attempt" at discrimination within the meaning of Section 8 (b) (2) must rest on assumptions that the proposal cannot and will not be altered in the course of the negotiations, that no other section of the completed agreement will alter or vary the meaning of the pro-

posed language, that the employer will execute an agreement in the form requested, and that discrimination will of necessity thereafter occur pursuant to the agreement. This distorts the meaning of "attempt" far beyond recognition.

This Court, on four parate occasions, has reminded the Board that it is not its function to supervise the language of collective agreements. NLRB v. Ameriz can National Insurance Co., 843 U. S. 395, 404; Carpenters' Union v. NLRB, 357 U. S. 93, 108; Teamsters Union v. Oliver, 358 U. S. 283, 295; NLRB v. Insurance Agents, 361 U. S. 477, 490, 498. Even the Board purports to agree. United Telephone Co. of the West. 112 NLRB 779, 781. Despite these holdings, the Board now seeks to go the further step of supervising the language of contract proposals put forth in the course of negotiations. The proposals "show respect for the law and not defiance of it. The parties, who could not foresee how some of the provisions of the statute would be interpreted, proposed to go as far toward union security as they are allowed to go, and this is their right; and they proposed to go no farther, and that is their whole duty." NLRB v. Rockaway News, 345 U, S. 71, 78-79.

### 2. The Foreman Clauses Are Valid

These clauses, as proposed in the Worcester and Haverhill negotiations, read:

The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union.

The Union shall not discipline the foreman for carrying out written instructions of the publisher

or his representatives authorized by this agreement." (R. 350, 397, 403)."

The Court below noted (R. 523) that "in the Haverhill case the foreman clause was not a key issue." The Trial Examiner found, and his finding was not disturbed, that at Worcester "the Company had no objection to his (the foreman) being a Union member, but would not agree to make Union membership mandatory" (R. 432). The foremen in both plants were Union members (R. 36, 49, 237). Yet, the Board found, and the Court sustained its finding, that the demand for these clauses constituted a violation of Sections 8 (b) (1) (B), 8 (b) (2) and 8 (b) (3).

The Court below observed that the Board's findings with reference to these clauses are "fragmentary and far from clear" (R. 521). Under the well-settled rule of Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, 196-7; 318 U.S. 80, 93-95 and U.S. v. Chicago, M., St. P. and P. R. Co., 294 U.S. 499, 511, this required at least a remand to the Board for clarification, as the unions pointed out by petition for rehearing.

That the Board's findings should not be clear is hardly surprising, in view of the explicit language of Section 2(3), 2(11) and 14(a) of the Act,26 which con-

in the Haverhill proposals two clauses dealt with the duties of the Foreman, and the disavowal of disciplinary power is in slightly different language.

<sup>&</sup>lt;sup>20</sup> Section 2(3) defines "employee" to exclude "supervisor", in turn defined in Section 2(11). Section 14(a) provides that "Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining." (Emphasis supplied).

template that employers may lawfully require their foremen to be, or not to be, Union members and the explicit legislative history to the same effect. As Senator Taft noted, the purpose of these amendments was to restore foremen "to the basis which they enjoyed before passage of the Wagner Act," 93 Cong. Rec. 3952, 2 Leg. Hist., 1008, and that foremen under these amendments, "may form unions if they please, or join unions" (id.).

#### a. Section 8 (b) (1) (B).

Section 8 (b) (1) (B) makes it an unfair labor practice for a union to "restrain or coerce... an employer in the selection of his representatives for the purposes of... the adjustment of grievances."

Manifestly, on the facts of this case, there was no "restraint or coercion" of the employers as to their selection of a foreman. Both companies had foremen who were union members (R. 36, 49, 237); there was no proposal that they be changed, even though at Worcester the Union had serious grievances against the foreman under the contract. (R. 194-198, 237; 431). There was thus not, in fact, any effort to influence (let alone "restrain or coerce") the employers in their selection of a foreman.

The critical holding of the Court below on this issue was that "Not only would the clause as proposed by the unions limit the employers' choice of foremen to union members, but it would also give the unions the power to force the discharge or demotion of a foreman by expelling him from the Union." (R. 521-2). This holding is wrong in both its assumptions. The clause would not limit "the employers' choice of foremen to union members" (though if he were not a member at

the time of selection the clause would require him to become a member). It stated that "The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman ..." (R. 350, 397, emphasis supplied) thus making it clear that the selection of its foreman was solely the choice of management. And the Court's second assumption that this "would give the unions power to force the discharge or demotion of a foreman by expelling him from the Union" is squarely in conflict with the proposal which provides that the Union shall not discipline the foreman for carrying out his employer's instructions (R. 350, 403).

But the real vice of the Court's analysis is that, once again, it attempts to project contract proposals into a complete agreement and then to decide disputes under such an agreement which have not, and may never, arise. The proposals provided full machinery for arbitrating "all disputes which may arise as to the construction to be placed upon any clause of the Agreement" (R. 352-53, 399). Had these proposals been accepted, and had the employer proposed to hire a nonunion man as foreman, or had the Union attempted to discipline the foreman for carrying out his duties under the agreement, the parties would have their normal recourse to arbitration to resolve the dispute. To determine the legality of proposed contract clauses

<sup>21</sup> The record shows that these procedures were actually followed at Worcester. (See p. 33, n. 22, infra). "There is no surer way to find out what parties meant than to see what they have done." Brooklyn Life Insurance Co. v. Dutcher, 95 U.S. 269, 274; "the practical interpretation of a contract by the parties to it . . . is deemed of great, if not controlling, influence." Old Colony Trust Co. v. Omaha, 230 U.S. 100, 118.

by deciding hypothetical disputes under them which have not yet arisen is to stand the collective bargaining process on its head. Cf., Evening Star Newspaper Co. v. Columbias Typographical Union, No. 101, 141-F. Supp. 374, aff'd 233 F. 2d 697 (CADC).

In adopting Section 8(b)(1)(B), the Congress was primarily concerned with union demands for industrywide bargaining. 93 Cong. Rec. 3953-54, 2 Leg. Hist, 1012 (remarks of Sen. Taft); 93 Cong. Rec. 4266, 2 Leg. Hist, 1077 (remarks of Sen. Ellender); and 93 Cong. Rec. 4897, 2 Leg. Hist. 1339 (remarks of Sen. Thomas, Utah). Additionally, it was concerned with union demands that "We do not like Foreman Jones and therefore you have to fire him or we will not go to work" (93 Cong. Rec. 3953, 2 Leg. Hist. 1012).22 gress had no desire to change accepted practices in the building, maritime, printing and other industries where foremen have traditionally been Union members. Sen. Rep. No. 105, 80th Cong. 1st Sess. pp. 5, 19, 1 Leg. Hist. pp. 411, 425. Manifestly, the practices sought to be curbed by the Congress are not present here, and there is nothing in the legislative history to indicate that the Congress desired to curtail the right to strike granted by Section 13 for a contract clause requiring foremen to be Union members, a clause which it expressly made lawful under Section 2(3), 2(11) and 14(a) of the Act. NLRB v. Drivers Local Union, 362 U. S. 274, 282;

Haverhill there was no disagreement at all on this issue, as the Court below held (R. 523). At Worcester, the local union members had abundant provocation to ask the dismissal of the foreman for violation of rules (R. 431), one of which was a principal cause of the strike (R. 194-198, 224), and made no such proposal. The issue was taken to arbitration, which had not been concluded when the strike began (R. 431).

NLRB v. Insurance Agents, 361 U. S. 477, 488-90. The decision in American Newspaper Publishers Ass'n v. NLRB, 193 F. 2d 782, 805 (CA7), cert. den. 344 U. S. 816 was expressly rested on findings that these proposals were part of a "general scheme" to achieve closed shop conditions.

That the imposition of a condition, such as a requirement that the foreman be or become a union member, does not violate Section 8 (b) (1) (B) is shown by NLRB v. Garment Workers Union, 274 F. 2d 376 (CA3), where the Court upheld a rule of the Union which forbade dealings with an employer representative who had previously been employed by the Union. Indeed, that case is nearer to the statutory prohibition than this, for the effect of the rule there would be to prevent such a person from representing the employer, while the contract proposal here advanced would allow anyone selected by the employer to represent him, subject to the condition that he become a union member if he were not already one.

#### b. Section 8 (b) (2).

The holding of the Trial Examiner on this issue, adopted by the Board, was a reliance on Enterprise Industrial Piping Co., 117 NBRB 995, which was characterized as holding, (R. 449, n. 6) that "where employers entrust their hiring to foremen who are members of the Union and bound by its laws, they in effect agree with the union, through the foremen who are agents of employers and the Union, to operate under a closed shop arrangement, which is a violation of the Act." This ground of decision was not adopted by the Court below, and it was specifically repudiated in Honolulu Star-Bulletin, supra, at page 570, and in News Syndicate, supra, at page 330. We believe we can add little

to Judge Hincks' discussion in the latter case. See also Carpenters District Council v. NLRB, 274 F. 2d 564 (CADC).

The record demonstrates that the ITU has made it clear that Union foremen are not expected to engage in discriminatory hiring practices.<sup>23</sup> In Evans v. ITU, 81 F. Supp. 675, 683 (ND Ind.), the Court noted that a pre-existing oath of membership which, it was claimed, would require foremen to discriminate, had been abrogated. In 1953, by action of the ITU Convention, Article XII, Section 1, of the Constitution was amended to eliminate entirely a requirement that ITU members seek preference in hire for other members (R. 270, 271-2). The holding of the Board that the hiring of a Union foreman "in effect" creates a closed shop is precisely analogous to a holding that the hiring of a nonunion foreman, without more, is "discrimination" against Union members.<sup>24</sup> The Enterprise rule rests

The legitimate economic reasons for requiring foremen to be Union members are spelled outsin the record (R. 272-274, 299). And see Evans v. ITU, 81 F. Supp. 675, 683-685 (D.C., Ind.) (1948); Matter of International Typographical Union, 86 NLRB 951, 1019, enf'd, American Newspaper Publishers Association v. NLRB, 193 F. 2d 782 (CA 7). A comprehensive discussion of the role of foremen in the printing trades is to be found in Leiter, The Foreman in Industrial Relations, (1948) at pp. 57-60, and in Twentieth Century Fund, How Collective Bargaining Works, (1942) at p. 147.

<sup>24</sup> The Board's confusion on this issue is illustrated by the line of decisions in which it has held Union foremen to be acting as agents of the employers in voting in union elections; for example, Bottfield-Refractories Co., 127 NLRB No. 28, 45 LRRM. 1522; Detroit Association of Plumbing Contractors, 126 NLRB No. 165, 45 LRRM 1482. These holdings can be reconciled only on the ground that the Board asserts that the Union foreman is the agent of that party—employer or union—which will support the finding of an unfair labor practice.

on the assumption that Union foremen probably will discriminate. But "the law will never presume that parties intend to violate its precepts." Qwings v. Hull, 9 Pet. 607, 628. Honolulu Star-Bulletin (at page 570) and News Syndicate (at pages 331-334) both demonstrate that Union foremen can, in fact, perform their duties in non-discriminatory fashion.

The Court below adopted an entirely different ground, holding that a violation of Section 8 (b) (2) was made out, "for the effect of the clause would be to cause the employers to discriminate in favor of union men in appointing their foremen thereby encouraging aspirants for that position to join the union." (R. 522) It was improper for the Court to substitute its own rationale, Securities and Exchange Commission v. Chenery Corp., 332 U. S. 194, 196; 318 U. S. 80, 93-95, and the ground adopted by the Court appears to have been rejected by the Board. F. H. McGraw & Co., 99 NLRB 695, 696; Pacific Shipowners Association, 98 NLRB 582, 596. It is in any event plainly wrong. The Congress, by removing foremen from the definition of "employee" in Sections 2(3), 2(11) and 14(a) of the Act, made it entirely clear that "discrimination" within the meaning of Section 8 (a) (3), and hence of Section 8 (b) (2), was not made out by requiring that foremen be, or not be, union members. As Judge Hincks noted in News Syndicate, at page 331,

"The News, like any other employer, is of course entitled to employ only Union foremen, if

<sup>&</sup>lt;sup>25</sup> "An employer is not guilty of unfair labor practices simply because his activity can all too easily be perverted into a system of unlawful discrimination. The unlawful act itself, not proximity to it, must be shown." Pittsburgh-Des Moines Steel Co. v. NLRB, 47 LRRM 2135, 2145 (CA 9, Nov. 15, 1960).

it so desires. Sections 2(3) & (11), 14(a) of the Act... (citing cases)"

Since foremen, under the Act, are no longer employees, there cannot be discrimination in employment within the meaning of Section 8 (a) (3) by the imposition of such a requirement. It is therefore quite irrelevant that such a requirement might have the result of "encouraging aspirants for that position to join the union," for Section 8 (a) (3) "does not outlaw all encouragement or discouragement of membership in labor organizations; only such as is accomplished by discrimination is prohibited." Radio Officers v. NLRB, 347 U.S. 17, 42-43.

We stress once more our conviction that an "attempt" to discriminate can not be made out by a proposal advanced in the course of collective negotiations. We do not feel that NLRB v. American National Insurance Co., 343 U.S. 395, 405, fn. 15, where this important question was expressly "put aside," can properly be cited to the contrary. While union foremen may discriminate in favor of union men, just as nonunion foremen may discriminate against them, the Board has never asserted, and clearly lacks, the power to compel the employer to hire a union or nonunion foreman (even where actual discrimination has been proved) or to say what his duties shall be. mere power to discriminate is not illegal as even the Board appears to recognize" (citing cases). News Syndicate, at page 330. Thus, no "attempt" is made out by this proposal.

3. Strikes For These Proposals Did Not Constitute a Refusal . to Bargain Collectively, or Otherwise Violate the Act.

The Trial Examiner found (R. 456) that the Unions were "desirous of securing contracts with the Companies," and both the Board and the Court below accepted this finding. He held, however, that the demand for these assertedly illegal clauses was a refusal to bargain within the meaning of Section 8 (b) (3) and 8 (d) of the Act. The Court below, describing these as "clauses of honestly disputable validity at the time of the union action" (R. 525) nonetheless held that the unions "were acting at their peril" (R. 525-26) and enforced the Order.

Clearly if, as we have argued, these clauses are lawful, the finding of a refusal to bargain must fall with it, for the finding is based solely on asserted illegality.

Moreover, the petitioners here had the strongest reasons for proposing these clauses as lawful demands. They had been carefully reviewed in Evans v. ITU, 81 F. Supp. 675, 684 (N. D. Ind., 1948) and were specifically found to be "not unlawful." They had been before the Board in Matter of ITU, 86 NLRB 951, 961. 1017-1020, (1949) and had not been found unlawful: and before the Court of Appeals for the Seventh Circuit in American Newspaper Publishers Ass'n v. NLRB, 193 F. 2d 782 (1951), cert. den. 344 U.S. 816. Charges similar to those here were dismissed administratively without hearing in Case No. 9-CB-74 in April, 1955. (R. 259). In Kansas City Star Co., 119 NLRB 972 (1957), the Board left undisturbed findings of a Trial Examiner that these clauses were lawful (see page 986, fn. 12). These views were subsequently vindicated in Honotulu Star-Bulletin and News Syndicate. For some thirteen years, therefore, these clauses

have been in use with the full knowledge of the Board and the General Counsel. On this record is it possible to say that the Union representatives did not urge the legality of these clauses in good faith? May a rational argument addressed to the legality of contract proposals constitute the basis for a finding of "bac faith"? Should the Board be encouraged to peer over the shoulders of the parties during negotiations and to intervene immediately when one of the parties proposes some language which, in the Board's view, might lead to a statutory violation? Is this "encouraging the practice and procedure of collective bargaining" which Section 1 holds out as the statutory objective?

Collective bargaining is sufficiently jeopardized when the Board asserts the power to direct, to the last dot of the i and crossing of the t, the language which must be contained in agreements as in Mountain-Pacific Chapter, etc., 119 NLRB 883 (1957), enforcement denied, NLRB v. Associated General Contractors, 270 F. 2d 425 (CA9). Now the Board attempts to push its power to oversee the entire collective bargaining process to a further remove; to deal, not with executed agreements, but with proposals put forward in the course of negotiations. Its assertion of power here thus goes two steps beyond the claim which this Court rebuffed in NLRB v. Insurance Agents, 361 U.S. 477.

We assert that the Board's finding of a violation of Section 8 (b) (3) cannot stand because the demanded

bargaining in this industry of the Board's effort to apply the in terrorem Brown-Olds remedy (115 NLRB 594) to the agreements here in question, in News Syndicate, 122 NLRB 818, 827 and Honolulu Star-Bulletin, 123 NLRB 395, 408. This condition has been largely alleviated by the reversal of those decisions.

clauses were lawful, because the petitioners reasonably and in good faith believed them to be lawful, and because the Board lacks power to inquire into the legality of contract proposals made by a union in the course of negotiations, since such proposals can neither "restrain or coerce" within the meaning of Section 8 (b) (1) or "attempt to discriminate" within the meaning of Section 8 (b) (2). The finding that petitioners were desirous of securing agreements should end the matter. See § 8(d).

We submit that the statement of the Court below, "the unions were acting at their peril, that is to say, at the risk of an enforcement order," (R. 525-26) unduly minimizes the practical consequences of a holding that the respondents violated the Act.27 If these strikes are lawful, the strikers are entitled to reinstatement on a nondiscriminatory basis. NLRB v. Mackay Radio Co., 304 U.S. 333. "However, the Court and the Board fashioned the doctrine that the Board should deny reinstatement to strikers who engaged in strikes conducted in an unlawful manner or for an unlawful objective. . . . These are the 'limitations or qualifications' on the right to strike referred to in § 13." NLRB v. Drivers Local Union, 362 U.S. 274, 281. If a strike for a contract loses its character as protected activity, because one or more of the demands, although of "honestly disputable validity", is later found to violate. § 8 (b) (1) (B), 8 (b) (2) or 8 (b) (3), those sections are given "an expansive reading . . . which would adversely affect the right to strike" although the Congressional purpose to give them that meaning persua-

 $<sup>\</sup>phi^{27}$  Nor do the unions, whose lawful intention is conceded, take lightly a determination that they have violated the law.

sively appears neither from the structure nor the history of the statute. See id. at 282. Of course these employees engaged in strikes "at their peril". But under our system the risk which employees take is economic in character; the Board should not put its thumb in the scale. See NLRB v. Insurance Agents, 361 U.S. 477, 490 Fourth.

# 4. The Board's Order, as Enforced by the Court Below. Is Unlawfully Broad.

We have previously adverted (supra, p. 28) to the Board's Order, which, as enforced by the Court below, would proscribe "insistence upon acceptance of Respondent/Union's . . . general laws clause . . ." As shown by Appendix "B", the great majority of the General Laws have not been challenged as illegal in any proceeding, including this. Hence, without a complaint, hearing, findings or order, the Board attempts to outlaw practices and conduct which are entirely lawful. This it may not do. Consolidated Edison Co. v. NLRB, 305 U.S. 197, 236, 238; Morgan v. U.S., 304 U.S. 1, 18-19; NLRB v. Express Publishing Co., 312 U.S. 426, 435-36; J.J. Case Co. v. NLRB, 321 U.S. 332, '341; Hartford-Empire Co. v. U.S., 323 U.S. 386, 410; Swift & Co. v. United States, 196 U.S. 375, 396.

The Board's Order with respect to the foreman clauses is equally erroneous. That Order would forbid "... insistence upon acceptance of the Respondent Unions"... foreman... clauses..." (R. 462, 464). This wording is sufficiently sweeping to include the language of these proposals dealing with the duties of foremen and the "non-discipline" provisions, which have not been found to be unlawful. "The dividing line between what is lawful and unlawful cannot be left to

conjecture". Connally v. General Construction Co., 269 U.S. 385, 393. If we assume that the Order is directed only to the requirement that foremen be Union members, it is still improper. The Board's thesis is that this provision is illegal because of the erroneous assumption that foremen would be bound by unlawful rules of the Union, rather than by the collective agreement and the requirements of Federal law. If this theory be adopted, it is then incumbent on the Board to state which of the rules are invalid, and why. took a tentative step in this direction in News Syndicate, supra (see page 330) by directing that the Union advise the foreman which of the General Laws were not to apply. But, despite the urging of the General Counsel<sup>26</sup> and the unions that the Board specify which of the General Laws were invalid, the Board did not go the full length of stating which of them were invalid, and we again refer to Appendix "B" as demonstrating the impossibility of satisfying the Board on this issue. The Board's Order is tantamount to a direction that foremen are to be free to disregard all the General Laws, including, for example, those dealing with apprenticeship and priority matters, which have not been found to be unlawful in this or any other proceeding. "The Board has no general commission to police collective bargaining agreements and strike down contractual provisions in which there is no element of an unfair labor practice." Carpenters' Union v. NLRB, 357 U.S. 93, 108. See also cases cited supra. p. 41.

<sup>28</sup> See Record in #339, this Term, p. 701.

#### 5. The ITU May Not Properly Be Held Liable With Its Local Unions.

The Trial Examiner and the Board found the ITU "chargeable with the unfair labor practices alleged and found herein" (R. 459). Reliance was placed on the fact that the locals demanded an "approvable contract" (by the ITU); that ITU approval of the contract proposals was required before submission to the employers; that two representatives of the ITU participated in the negotiations; and that the strikes were authorized by the ITU. (id.) On the basis of these findings, the ITU and its local unions were both ordered to "bargain collectively as the exclusive bargaining representative of the employees..." (R. 482, 484, emphasis supplied).

In making these findings, the Trial Examiner and the Board ignored the following undisputed evidence:

- (a) The General Laws of the ITU provide (G.C. Ex. 15, p. 109; Article III, Section 1) that "... agreements [made by local unions] shall contain a clause excluding the International Typographical Union as a party thereto. It is the obligation of the local union to observe and enforce the terms of the contract."
- (b) Only local unions have power or authority to enter into collective agreements and the ITU has none. (R. 98).
- (c) One of the purposes of the ITU's review of agreements is to assure their legality. The ITU has believed this to be necessary to comply with the decree in the ANPA case, supra. (R. 283).
- (d) In "approving" agreements, the President of the ITU "... pledges, as a matter of union policy only, its full authority under its laws to the fulfillment there-

of, without becoming a party thereto and without assuming any liability thereunder" (R. 370, 411).

- (e) The contract proposals presented expressly provided that the local unions and the employers alone were to be parties to the agreements, (R. 347, 395) and that the ITU would not be (R. 370, 411).
- (f) The limited right of the ITU to intervene in negotiations at the request of local unions is solely to attempt to settle the dispute, and not to represent the employees as bargaining representative (G. C. Ex. 15, By-laws, Article XIX, Section 1, p. 82; R. 96-98).
  - (g) Strikes may be called *only* by majority vote by secret ballot by local union members (G. C. Ex. 15, Bylaws, Article XIX, Section 2, pp. 82-83; R. 97).
- (h) The ITU constitutional procedures described above were followed in these negotiations (see, e.g., R. 44-5, 100; 204, 224, 237).

The Court below adopted the Board's holding, and likewise did not advert to the above undisputed facts (R. 526).

Since United Mine Workers v. Coronado Coal Co., 259 U.S. 344, 393-396 and Coronado Co. v. United Mine Workers, 268 U.S. 295, 299-305, it has not been doubted that international and local unions are discrete juridical entities. For the same reason that two bodies cannot as a rule of physics occupy the same space, it would seem logically precluded that two different organizations can both act as exclusive bargaining agents. Any holding that both can so act raises a host of practical problems. Who is to control the course of the negotiations? Must the ITU now, in spite of the explicit limitations on its authority imposed by its members, enter into agreements? Are local unions to be precluded

from proposing, as they did here, that the local union alone is to be a party to the agreement?

Section 9 (a) of the Act provides that "representatives designated or selected for the purpose of collective bargaining ... . shall be the exclusive representative of all the employees in such unit . . ." In this case there had been no election or certification by the Board. Whom the employees had selected to represent them is therefore a question of fact, to be determined by the common law rules of agency. Section 2(13) of the Act: H. Conf. Rept. No. 510 on H. R. 3020 (80th Cong., 1st Sess.) p.36, 1 Leg. Hist. 540. The members of the ITU. by the adoption of explicit provisions in its laws, have conclusively indicated their intention that the ITU is not to act as a bargaining representative, and that local unions are. The members of the Haverhill and Worcester Union, by adopting proposals which would specifically exclude the ITU as a party, and make the local union the sole signatory, have demonstrated a like intention.29

In Franklin Electric Co., 121 NLRB 143 (1958) the Board, at pp. 145-148, examined this question at length, on facts not dissimilar from those here, and concluded that the International Union was not responsible, without more, for actions of its locals. Similarly, in Di

<sup>&</sup>lt;sup>29</sup> The testimony is undisputed that Worcester Typographical Union had in the past entered into agreements not approved by the ITU and that no disciplinary action had in consequence theen taken against it (R. 236). This testimony alone establishes the complete autonomy of local unions insofar as the power and duty to bargain is concerned.

<sup>&</sup>lt;sup>30</sup> The Board there rejected the theory that a local "is merely an administrative arm" of its International. 121 NLRB 143 at 146-148. Accordingly, it determined that responsibility of the

Giorgio Fruit Co. v. NLRB, 191 F. 2d 642, 647-648 (CADC), cert. denied, 342 U.S. 869, it was held that constitutional provisions almost identical to those here involved "spell out a basic responsibility on the part of the local rather than a subordinate position of agency delegated by the National." In that case, the participation of representatives of the International Union in strike activities was held not sufficient to make the local the agent of the International. (See id. at 648)."

The theory of the complaints in this case (R. 4, 13), adopted by the Board (JA 458-9), was not that the locals were the agents of the ITU, or that the latter was responsible under the doctrine of respondent superior, but rather that both were the bargaining representative of the employees. While American Newspaper Publishers Association v. NLRB, 193 F. 2d 782, 805, (CA 7), cert. denied, 344 U.S. 816, can properly be cited as holding that "the ITU and the ... local and each of them were the exclusive bargaining representatives of the employees ..." (193 F. 2d at 805), it should be noted that the Court there also held that this was "a question of fact to be resolved by the Board upon consideration of all of the relevant evidence bearing on the question" (id.). As we have indicated, the Board

International "must be determined by the ordinary rules of agency." Id. at 148. It also recognized that the constitution of the International determines the latter's relationship with its locals. Id. at 146-47. In their brief to the Board in the present case the unions relied heavily on this decision; yet the Board ignored the provisions of the ITU constitution and failed to make any findings on an agency basis.

<sup>&</sup>lt;sup>31</sup>And see United Brotherhood of Carpenters, etc. v. NLRB, 47 LRRM 2254, 2258 (CADC, Dec. 15, 1960).

and the Court below ignored much, if not most, of the relevant evidence on this matter. In any event, we submit that the holding is clearly wrong, in that it is both a logical and practical impossibility for two agents to be the exclusive representative of the same employees. Nor can a violation be made out in the absence of a demand by the employers that the ITU bargain with them. NLRB v. Columbian Enameling & Stamping Co., 306 U.S. 292, 297-98. There is no such evidence in the record. Only by overturning authoritative and well-settled precedent, and adopting the patent fiction that the ITU and its local unions are a single entity, can this result be supported. The effect of the holding is to impose on employees by fiat an agent which they have not selected to represent them, and which they have specifically repudiated.

The fallacy of the Board's decision here is dramatized by the order to which its logic leads. The relevant part of the order in the Haverhill case, for example, reads:

- "I. The Respondents International Typographical Union, AFL-CIO, and International Typographical Union Local 38, AFL-CIO, and their officers, agents, and representatives shall?...
- "(b) Take the following affirmative action which the Board finds will effectuate the purposes of the Act:
- "(1) Upon request, bargain collectively as the exclusive bargaining representatives of the employees in the unit found to be appropriate." (R. 481-2 (emphasis supplied).

If the Gazette makes the request of both ITU and Local 38, how can both possibly comply? Alternatively, the Gazette is given the option whether it will require the ITU or the Local to be the exclusive bargaining agent. How does it "effectuate the purposes of the Act" to let an employer choose the bargaining representative of his employees? This is a choice to be left to the employees; and indeed, we have shown that they made such a choice, and chose the local. Section 9 (a) of the Act provides that the choice of the employees, not of the employer or the National Labor Relations Board, shall be their exclusive bargaining representative. There is no evidence that they chose the ITU. The order against the ITU cannot stand.

#### CONCLUSION

This Court has had repeated occasion to remind the Board and others that the terms of collective agreements are for the parties to resolve. NLRB v. American National Insurance Co., 343 U.S. 395, 404 (1952); Carpenters' Union v. NLRB, 357 U.S. 93, 108 (1958); Teamsters Union v. Oliver, 358 U.S. 283, 295 (1959); NLRB v. Insurance Agents, 361 U.S. 477, 490, 498 (1960). Despite these holdings, the Board now asserts the power to inquire into the validity of discrete proposals made in the course of negotiations, to draw wholly speculative conclusions as to the manner in which such clauses would be applied if they were contained in an agreement, to ignore entirely the manner in which they have been applied, to assert that the standard by which such proposals are to be judged is not their terms, but their supposed impact on a hypothetical group, and on this basis to characterize strikes. seeking a wide variety of objectives, as unlawful. For the reasons hereinbefore set forth, we urge that this is a gross perversion of the statutory purpose, arising

from a disregard of authoritative precedent, and that the decision below should be reversed.

Respectfully submitted,

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January, 1961

#### APPENDIX "A"

#### Statutory Provisions Involved

#### Sec. 2. When used in this Act-

- (3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and " " shall not include " " any individual employed as a supervisor, " "
- (11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Sec. 8 (a). It shall be an unfair labor practice for an employer—

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization. (not, established, maintained, or assisted by any action defined in section 8 (a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agree-

ment, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective-bargaining unit covered by such agreement when made • • •

- (b) It shall be an unfair labor practice for a labor organization or its agents—
  - (1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;
  - (2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;
  - (3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 9 (a).
- (d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement

reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession:

Sec. 9(a). Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: • • •

Sec. 10 (e). • • • The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

Sec. 13. Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.

Sec. 14. (a) Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

#### APPENDIX "B"

|  |   | APPENDIX  | "B"   |  |   |   |
|--|---|---|---|--|---|---|
|  | Compla<br>Hea                                 |   | INTERMEDIATE<br>REPORT  |  | BOARD DECISION  |   |
| KANSAS CITY STAR<br>and<br>ITU MAILERS NO. 7                   | Art. I § 3, 4, 9, 10<br>Art. III § 12         |   | Illegal Laws Not Discussed— Laws Clause Approved Total  |  | NONE Total  |   |
| HONOLULU<br>STAR-BULLETIN<br>123 NLRB 395                      | Art. II                                       | 5, 6, 7, 8<br>§ 1   | Art. III § 1<br>Art. V § 1, 11<br>Art. X § 1, 2<br>Art. XIV § 1   |  | Art. V § 10 Art. VII § 1, 2, 5, 6 Art. VIII § 1 Board expressly reserved the right to pass on other General Laws in future cases. |   |
|  |   | Total .   |   | Total 6                                |   | Total<br>6+   |
| NEWS SYNDICATE<br>and<br>NEW YORK, MAILERS<br>122 NLRB 818     |   | § 1<br>§ 1, 2, 5, 6   | Approved: Art. I § 3 Disapproved Art. III § 1 Art. V § 1 Art. VIII § 1 Art. VIII § 1 Art. VIII § 1        | 1;<br>2<br>1, 12<br>, 2                | Intermediate Approved. No General I specifically Board express right to pas General Law cases.                                    | discussed.  |
| HAVERHILL GAZETTE<br>and<br>WORCESTER TELEGRAM<br>123 NLRB 806 |   | \$ 4, 5, 7,<br>11, 19<br>\$ 12<br>\$ 1, 8, 9, 11<br>\$ 1, 5, 6, 7 | Approved: Art. I § 4 Disapproved Art. III § 1 Art. V § 1 Art. VII § 1 Art. VIII § 1 Not Passed Art. X § 5 | , 5, 7, 11, 19<br>l:<br>2<br>, 5, 6, 7 | "Apprentices priority sy disapproved discussion of laws. Intermediate proved without specific laws.                               | stems'<br>d without<br>of specific<br>Report ap-<br>ut discussion |
| HILLBRO NEWSPAPER PRINTING CO. and LOS ANGELES MAILERS         | Art. III & 1:<br>Art. V \$ 16<br>Art. X \$ 1, | ) · .   | Art. III § 1:<br>Art. V § 16<br>Art. X § 1.   |  | Art. III § 1:<br>Art. V § 10<br>Art. X § 1,   | 2,6   |
| 127 NLRB No. 71  |   | Total 5   |   | Total 5                                |   | Total 5   |

|   |  |  | 1              |  |
|---|--|--|----------------|--|
| NEW YORK TIMES and NEW YORK MAILERS 2-CA-6432 2-CB-2504                               | Art. III § 12<br>Art. V § 11, 12<br>Art. VII § 1, 2<br>Art. VIII § 1<br>Art. X § 1, 2, 5, 6                              | Trial Examiner recom-<br>mended dismissal of the<br>complaint.   | NOT YET ISSUED |  |
| 2-CA-6433   | Total<br>10  | Total 0  |                |  |
| NEWSPAPER AGENCY<br>CORP.<br>and<br>SALT LAKE CITY<br>MAILERS<br>20-CA-1556 20-CB-658 | Art. I § 3, 4, 11, 13<br>Art. III § 12<br>Art. V § 1, 11, 12<br>Art. VII § 1, 2<br>Art. VIII § 1<br>Art. X .§ 1, 2, 5, 6 | Specifically Disapproved:  Art. I § 3, 13 Art. V § 11 Art. VII Art. VIII Others not specifically discussed.  Total | NOT YET ISSUED |  |
| TRIBUNE PUBLISHING CO. and SAN FRANCISCO- OAKLAND MAILERS 20-CA-1553 20-CB-657        | Art. 1 § 3, 4, 5 Art. II § 3 Art. III § 12 Art. V § 1, 11 Art. VII § 1, 2 Art. VIII § 1 Art. X § 1, 2, 4, 5  Total 14    | Trial Examiner did not discuss individual Laws but entered order requiring Union to specify.                       | NOT YET ISSUED |  |

ů

Appendix "B"

### ALPERT v. INTERNATIONAL TYPOGRAPHICAL JNION (DC MASS.) NO. 58-203-A, 161 F. SUPP. 427

| COMPLAINT   | GENERAL COUNSEL'S BRIEF IN OPPOSITION TO MOTION TO DISMISS     | EMPHASIZED IN ORAL ARGUMENT  | GENERAL COUNSEL'S SUPPLEMENTAL MEMORANDUM   |
|---|--|--|---|
| Art. I § 4, 5, 7, 11, 19 Art. III § 12 Art. V § 1, 8, 9, 11 Art. VII § 1, 5, 6, 7 Art. VIII § 1 Art. X § 5, 6 | Art. I § 11 Art. III § 12 Art. V § 7 Art. VII Art. VIII Art. X | ART. I § 1 (Apprentice required to furnish adequate evidence to Local Union to prove he is at least 16 years old.  Art. I § 5 (Apprentice requires approval of Local Union President to change Employers | Art. I § 1, 2, 3, 4, 5, 7, 8, 10, 13, 14, 15, 16, 23, 24  Art. III § 1, 2, 5, 12  Art. V § 1, 2, 8, 9, 11  Art. VII § 1, 2, 5, 6, 7, 8  Art. X § 2, 3, 6, 7  Art. XI § 4, 5, 11, 13 |
|   |  |  | General Counsel ex-<br>pressly reserved the<br>right to challenge other<br>General Laws in future<br>cases.   |
| Total 17  | Total 6  | Total 2  | Total 37 +  |

## FILE COPY

FERENCE OF

#### IN THE

# Supreme Court of the United States

OCTOBER TERM, 1900\_

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO,
HAVERHIEL TYPOGRAPHICAL UNION NO. 38.
WORGESTER TYPOGRAPHICAL UNION NO. 165.
Petitioners

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Certiorari to the United States Court of Appeals
for the First Circuit

BRIEF FOR WORCESTER TELEGRAM PUBLISHING COMPANY, INC., AS AMICUS CURIAE

ELISHA HANSON ARTHUR B. HANSON EMMETT E. Tecorie, Jr. 729 Fifteenth Street, N.W. Washington 5, D. C.

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### IN THE

# Supreme Court of the United States

OCTOBER TERM, 1960

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO, HAVERHILL TYPOGRAPHICAL UNION No. 38, WORCESTER TYPOGRAPHICAL UNION No. 165, Petitioners

V.

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Certification to the United States Court of Appeals for the First Circuit

BRIEF FOR WORCESTER TELEGRAM PUBLISHING COMPANY, INC., AS AMICUS CURIAE

This brief is submitted by Worcester Telegram Publishing Company, Inc., as Amicus Curiae, in support of the decree entered below enforcing an order of the National Labor Relations Board, as modified, in a proceeding to review and set aside, and on cross petition by the Board for enforcement of its order.

#### **OPINIONS BELOW**

The opinion of the Court of Appeals for the First Circuit is reported at 278 F. 2d 6. The Decision and Order of the National Labor Relations Board are reported at 123 N.L.R.B. 806.

## INTEREST OF THE AMICUS CURIAE

Worcester Telegram Publishing Company, Inc., a corporation organized and existing under the laws of the State of Massachusetts, is the owner and publisher of two daily newspapers published at Worcester, Massachusetts. One, The Telegram, is published mornings and Sundays and the other, The Gazette, is published each weekday evening throughout the year.

This Amicus Curiae was the charging party in the unfair labor practice complaint filed in February, 1958, by the General Counsel of the National Labor Relations Board against the International Typographical Union and Worcester Typographical Union No. 165, the petitioners herein, hereinafter called "I.T.U." and "Local 165", respectively.

The narrow question presented in this case is whether or not the petitioners may lawfully seek, and strike to secure, the inclusion of their General Laws and Foreman Clauses in a collective bargaining agreement. Underlying that question is a broader one presented by this case, namely, whether substantially all daily newspapers in the United States having contractual relations with subordinate locals of the I.T.U. must agree to observe closed shop conditions

Also named as respondents in the proceedings instituted by General Counsel of the National Labor Relations Board were the Executive Council of the I.T.U. and the Scale Committee of Local 165 (R. 11).

in their composing rooms as a condition precedent to obtaining collective bargaining agreements with such local unions.

Since its founding in 1852, the I.T.U. has operated under and insisted upon closed shop conditions of employment as a mandatory requirement. Since 1947, the I.T.U. has adamantly persisted in its demands for the closed shop, notwithstanding enactments of the Congress of the United States and the decisions of the courts condemning such bargaining policies as unlawful.

This Amicus Curiae is vitally interested in a final determination of this fundamental issue by this Court. In submitting its brief, this Amicus seeks to persuade the Court to adopt the view that, in light of the historic and present policies of the I.T.U. as implemented through its subordinate locals, the court below was manifestly correct in holding that the petitioners herein committed unfair labor practices by insisting upon, threatening to strike and striking to secure acceptance of the General Laws and Foreman Clauses as a part of a collective bargaining agreement.

### PRELIMINARY STATEMENT

Following a strike called against it by petitioners herein late in November, 1957 (R. 105), the Company filed charges with the Regional Director of the National Labor Relations Board<sup>2</sup> for the First Region against the I.T.U., its Executive Council, Local 165, and its Scale Committee. The charges alleged, inter alia, violations of Sections 8(b)(1)(B), 8(b)(2) and 8(b)(3) of the National Labor Relations Act, as

<sup>2</sup> Hereinafter called the "Board".

amended, 61 Stat. 136, 29 U.S.C. § 151, et seq., hereinafter called the "Act".

On February 6, 1958, the General Counsel of the Board issued a complaint against the I.T.U., its Executive Council, Local 165 and its Scale Committee alleging the respondents had been and were engaging in various acts and conduct in violation of the Act (R. 11-21).

On the same day, the General Counsel issued another complaint on separate charges filed by the Haverhill Gazette Company against the I.T.U. and Haverhill Typographical Union No. 38 (R. 3-11). Subsequently, the two cases were consolidated for hearing by order of the Regional Director and hearings in the Worcester case were held in Worcester, Massachusetts, by a Trial Examiner of the Board in April, 1958.

In due course the Trial Examiner filed his Intermediate Report (R. 412). Thereafter, on April 17, 1959, the Board entered its Decision and Order affirming in large part the findings, conclusions and recommendations of the Trial Examiner (R. 480-485). The respondents, petitioners herein, thereupon filed their petitions in the court below to review the Board's order and set it aside and the Board countered with a petition to enforce its order (R. 498, 503, 505, 510).

The court below found certain specific practices to be unlawful, reversed the Board on other phases of its order, and entered a decree enforcing the order of the Board, as modified, in its opinion handed down on May 10, 1960, 278 F. 2d 6 (R. 513). Petitions for rehearing, filed on June 3, 1960, were denied by order of the court below entered on June 10, 1960 (R. 529).

A petition for a writ of certiorari was filed on August 18 and granted on November 7, 1960, 364 U.S. 878.

This Court has set this case for argument on the summary calendar following argument in cases No. 64, No. 68<sup>4</sup> and No. 339<sup>5</sup> and in numerical sequence.

This case is easily distinguished from cases No. 64, 68 and 339. Each of those cases involved the application by the Board of its so-called *Brown-Olds*<sup>6</sup> refund remedy under which the Board ordered reimbursement of moneys exacted from employees as union dues, fees or assessments under a hiring system found by the Board to be illegal.

No such question is involved in this case.

Here the essential question involved is whether strikes called by petitioners to force agreement by the publisher-employers to specific contract provisions, designed and insisted upon to obtain and maintain closed shop conditions in the publishers' respective composing rooms, violated Section 8(b) of the Act.

<sup>&</sup>lt;sup>3</sup> Local 357, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America v. N.L.R.B., 121 N.L.R.B. 1629 (1958); enforced as modified, 107 App. D.C. 188, 275 F. 2d 646 (1960).

<sup>&</sup>lt;sup>4</sup>Local 60, United Brotherhood of Carpenters and Joiners of America, etc., et al. v. N.L.R.B., 122 N.L.R.B. 396 (1958); enforced, 273 F. 2d 699 (C.A. 7th, 1960).

<sup>&</sup>lt;sup>5</sup> N.L.R.B. v. News Syndicate Company, Inc., 122 N.L.R.B. 818 (1959); enforcement denied, 279 F. 2d 323 (C.A. 2d, 1960).

<sup>&</sup>lt;sup>6</sup> United Association of Journeymen & Apprentices of Plumbing and Pipefitting Industry, etc., et al., 115 N.L.R.B. 594 (1956).

### QUESTIONS PRESENTED

Specifically, these essential questions are whether or not the petitioners herein committed unfair labor practices in violation of Section 8(b) of the Act, as amended, by insisting upon, and striking to secure, inclusion of the following clauses as a condition precedent to entering into a collective bargaining agreement:

1. "The General Laws of the International Typographical Union, in effect at the time of execution of this agreement, not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract."

2. "The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union.

The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement."

## HISTORICAL BACKGROUND

As was said by the late Mr. Justice Holmes many years ago, in the consideration of this case, a page of history is worth a volume of logic.

The history of the I.T.U. and its efforts to force closed shop conditions on publishers both before and after the Taft-Hartley amendments to the Act are fully set forth in American Newspaper Publishers

<sup>&</sup>lt;sup>7</sup> Two additional questions are stated in the brief filed by the petitioners herein (Brief for Petitioners, p. 3).

<sup>&</sup>lt;sup>8</sup> New York Trust Co., et al. v. Eisner, 256 U.S. 345, at page 349 (1921):

Ass'n. v. N.L.R.B., 193 F. 2d 782 (C.A. 7th, 1951); cert. denied on the questions herein involved, 344 U.S. 816 (1952). In the A.N.P.A. case the Court of Appeals for the Seventh Circuit found that from long before the enactment of the Taft-Hartley amendments to the Act it was the unalterable policy of the I.T.U. that no member thereof would work for an employer except under conditions fixed by the I.T.U. One of these conditions was that I.T.U. members could only work in a composing room where all the employees were members of the union. Still another was that all members were subject to its General Laws which in turn could not be submitted to arbitration. Another was that the composing room be in charge of a foreman who was a member of the I.T.U.

These policies of the I.T.U. were not changed by the passage of the Taft-Hartley amendments to the Act.

the I.T.U. maintained "absolute control" over its subordinate locals and members. Then it proceeded to examine how that power was used. It found that "upon passage of the Taft-Hartley Act . . . the ITU at once launched a campaign for the apparent purpose of expressing its disapproval and defiance of the Act and for the further purpose of instructing its subordinate locals and members on methods of avoiding the impact of the various provisions of the Act on the traditional practices and policies of the ITU" (Emphasis supplied) (193 F. 2d 782, at 789).

The Court cited numerous statements by Woodruff Randolph, President of the I.T.U., both immediately before and after the enactment of the Taft-Hartley

<sup>9</sup> Hereinafter called the "A.N.P.A." case.

Act which may be summarized by one of Randolph's statements that

"'At no time has the International Typographical Union or any local thereof operated on other than a closed shop basis and whether it can make contracts thereof or not, it will continue to function on that basis.' " (Id. at 789).

And another after the passage of the Taft-Hartley Act

"'A condition of closed-shop exists in the printing industry as regards employment of composing room workers. Theories will not change that condition.'" (Id. at 790).

### And still another:

"We will maintain our right to work only with union men under any circumstances." (Id. at 790).

While the A.N.P.A. case as subsequently reviewed by the Court of Appeals for the Seventh Circuit in 193 F. 2d 782 was pending before the Board, its Regional Director for the Ninth Region sought and obtained an injunction in the United States District Court for the Southern District of Indiana, to restrain the I.T.U., its officers and agents from continuing the unfair labor practices complained of during the pendency of the proceeding before the Board. Evans v. International Typographical Union, et al., 76 F. Supp. 881 (1948). In that case the Court, through Judge Swygert, found that

"Beginning about July 1, 1947, respondent Randolph and the other individual respondents composing the Executive Council of respondent ITU instigated, advised, and urged the respondent ITU and its members to adopt a policy of refrain-

ing from customary contractual relations with employers and of preventing subordinate local unions from entering into any collective bargaining agreements with employers. The primary purpose of this policy was to preserve the closed shop for the ITU and to circumvent the statutory elimination of the closed shop." (Emphasis supplied.) (76 F. Supp. 881, at page 891).

At page 893, Judge Swygert found that on February 18, 1948, members of the L.T.U. voted to increase the assessment of their wages for the benefit of a fund with which respondent I.T.U. supported strikes. As a consequence, the average monthly revenue of said fund was increased from approximately \$100,000 to approximately \$1,000,000 and from one-half of one percent to a total of five percent of earnings.<sup>10</sup>

Judge Swygert further found that the respondents had indicated no intention to discontinue their insistence upon the maintenance by employers of closed shop conditions and, on the contrary, indicated every intention of continuing their conduct unless restrained. (1d. at 893).

Beginning with 1952 the membership of the I.T.U. repeatedly rejected referenda proposing the continuation of large special assessments for the Defense Fund. These rejections occurred in referenda conducted on October 22, 1952; January 28, 1953; September 16, 1953; November 28, 1956; and May 15, 1957. (See The Typographical Journal: December, 1952, page 330; March, 1953; page 142; November, 1953, page 266; January, 1957, page 3; July, 1957, page 14.) Finally, on October 9, 1957, the membership adopted a Convention Proposition to establish a Strike Benefit Fund by the levy of a one percent assessment on total earnings for a period of three months, with the provise that if at any time after the three months the balance of the fund fell below \$500,000 the assessment should again be levied and be in effect for three months after the fund reached \$500,000. (See The Typographical Journal, November, 1957, page 165.)

The Court entered a broad decree restraining and enjoining the I.T.U., its officers and agents, pending the final adjudication of the case then before the Board, from

"In any manner promulgating, disseminating, pursuing, observing, or in any wise giving effect to or ordering, instructing, requiring, recommending, inducing, encouraging or in any wise causing subordinate local unions and members of respondent International Typographical Union, or any of them, to promulgate, disseminate, pursue, observe, or in any wise give effect to, any policy, practice or course of conduct including without limitation (a) conditions of employment, (b) Form P-6(a) contracts or modifications thereof, (c) provisions for cancellation of an entire agreement upon 60 days' notice, (d) laws, rules and decisions of respondent International Typographical Union, which in any manner discriminates against employees in regard to hire or tenure of employment, or any term or condition of employment, because of non-membership in respondent International Typographical Union or its subordinate local unions, or any of them, or causes or attempts to cause employers in the newspaper industry to so discriminate against employees, except in accordance with the provisos to Section 8(a)(3) of the National Labor Relations Act. as amended." (Id. at 895).

The respondents in the injunction proceeding subsequently were cited for contempt of Judge Swygert's order, and were found in contempt, by reason of their violations of certain portions thereof. *Evans* v. *I.T.U.*, 81 F. Supp. 675. (D.C.S.D., Ind., 1948).

Thereafter, the Court of Appeals for the Seventh Circuit found in the A.N.P.A. case that coercive in-

employer to employ only union members as foremen indicated a persistent objective to continue closed shop conditions in the newspaper industry. In its decree, the Court directed the enforcement of the Board's order prohibiting coercive action by the I.T.U. designed to compel employers to continue hiring only union members as foremen in their composing rooms. The Court also decreed enforcement of the Board's order that the I.T.U. and its officers and agents cease and desist from:

"Threatening to take strike action, or directing, instigating, or encouraging employees to engage in or to threaten to engage in, strike action, or approving or ratifying strike action taken by employees, for the purpose of requiring employers either non-contractually or as a matter of contractual obligation to violate Section 8(a)(3), by discriminating with respect to the employment or conditions of employment of any employee." (193 F. 2d 782, at page 797).

The Court in the A.N.P.A. case further found that the I.T.U. by insistence upon a variety of clauses was coercing employers into a closed shop in discrimination against non-union employees in violation of Section 8(a)(3) of the Act. The Court said it was of the opinion that it was not necessary for the Board to consider the validity of such clauses separately; that the further insistence on the use of these substantive clauses as a coercive scheme to secure a closed shop would be a violation of the Board's order and could be stopped by enforcement thereof. Finally, it said it had already been demonstrated in Evans v. ITU, D.C., 81 F. Supp. 675, the decision holding the I.T.U. in contempt,

"... that a union could not avoid the consequences of its violation of a court's order enjoining its unfair labor practices by merely changing those activities to activities of a slightly different type or nature which had not been specifically litigated but which were used by the union to accomplish the same prohibited results." (193 F. 2d 782, at p. 799).

### STATEMENT

The foregoing history of I.T.U. bargaining policies provides essential background for what took place in Worcester between December 31, 1954, when the last contract between the parties expired (R. 419), to November 29, 1957, when the strike was called (R. 105).

There is no dispute over what took place in these negotiations.

The union insisted upon an approved contract (R. 225-226) providing for its unilaterally asserted jurisdiction, and further requiring the Company to agree that the foreman must be a union member and requiring the Company to accept the General Laws clause as approved by the I.T.U. (R. 110, 111, 112, 117-119).

Beginning with October 24, 1956, there were six negotiation sessions between the parties in that year and, likewise, there were six such sessions in 1957 (R. 105). Four of the 1957 meetings were held on January 10, January 22, January 30 and February 8. The final sessions preceding the strike were held

<sup>&</sup>lt;sup>11</sup> Inasmuch as the court below found that by its insistence on the jurisdiction clause the union did not refuse to bargain collectively as required by Section 8(b)(3) of the Act, it is unnecessary to detail negotiations over that clause in this statement.

on November 26 and November 27 and the strike began on November 29 (R. 105).

Federal and State Mediators were brought in by the union on January 22, 1957 (R. 112). Up to that time practically all of the discussion had dealt with the Company's strong objection to the three clauses on jurisdiction, union foreman and General Laws, mandated by the I.T.U. At th January 22, 1957, meeting, the Company's representatives were informed by the Federal Mediator, after her talk with the union representatives, that the disputed clauses would have to be settled first and the Company's representatives informed her that it could not agree to those clauses as submitted (R. 112).

William LaMothe, a representative of the I.T.U., entered the negotiations on January 10, 1957, and in reply to a question from the Company representatives as to whether the union had changed its position on the disputed clauses he said no. He stated further that the I.T.U. language on the laws and jurisdiction sections "must be taken" (R. 111-112). When, on January 22, it became obvious that an impasse had been reached, the Company was informed that the union would ask for a strike sanction vote on January 23 (R. 112-113).

The next meeting between the parties was on January 30 and at this meeting the Mediators were present. The Company's representatives informed the union representatives that the Company was willing to make a legal contract on wages, hours and working conditions but with no recognition of the General Laws requiring closed shop conditions, including the union foremen (R. 113). The union complained it had never

had a complete counter-proposal and the Company immediately offered to prepare and submit one (R. 113). On February 6, the Company submitted its counter-proposal (G.C. Ex. 5; R. 113). On February 8 this counter-proposal was discussed. It was obvious then that strike sanction had been denied (R. 226-227). The Company's representative said that it would give the men a posted notice providing for wages, hours and working conditions and that such notice would not be regarded by the Company as a contract, but only as an effort to resolve the impasse (R. 114).

The notice was drafted and discussed between the Company representatives and the union representatives. The posted notice provided for two wage increases of \$4.00 each, payable on January 1, 1958, and January 1, 1959, and ending December 31, 1959. The union representatives objected to having a final cut-off date so the notice was changed to eliminate it. Union representatives inquired about the inclusion of other provisions which had been discussed previously and the Company representatives agreed to include these provisions in the notice. The notice was posted on February 9, 1957 (R. 114-116).

Following the posting of the notice on February 9, 1957, the President of Local 165 informed the membership that it had not been able to obtain strike sanction and further of the discussions incident to the notice which was posted. In making this statement the President said that, absent the foreman clause, the jurisdictional clause and the union laws clause which the representatives of the union had sought, the other conditions in the posted notice appeared to be quite fair (R. 232).

Insofar as the request for strike sanction and its denial were concerned, the President of Local 165 testified

". . . it would be economically impossible for us to strike without sanction. We have to eat you know." (R. 227).

The posting of the notice of February 9 created a hiatus in bargaining. Meanwhile the I.T.U. urged the membership to agree to a new assessment for strike purposes. As has been previously noted,12 the membership in 1952 had rejected a recommendation of the I.T.U. Executive Council for the continuation of large special assessments for its Defense Fund and at various times between 1952 and July, 1957 the membership continued to reject such proposals.13 On October 9. 1957, the membership approved a Convention proposal to establish a Strike Benefit Fund with a levy of a one percent assessment of total earnings for a period of three months with the proviso that, if at any time after the three months the balance of the fund fell below \$500,000, the assessment should again be levied and be in effect for three months after the fund reached **\$500,000.** 

With this new money available, the I.T.U. immediately put pressure upon various newspapers to agree to contracts with the I.T.U. mandated union foreman.

<sup>12</sup> n. 10, supra.

in May, 1957. A subsequent recommendation was approved in a referendum on October 9, 1957. (n. 10, supra). In connection with the October recommendation the Annual Convention had been told that the I.T.U. had expended \$39,000,000 in battling Taft-Hartley since 1947. The Typographical Journal, September, 1957, page 67s.

General Laws and jurisdiction clauses in them (R. 204). Negotiations were resumed at Worcester on November 26, 1957. At these Charles M. Lyon, First Vice President of the I.T.U. and a member of its Executive Council, appeared as a spokesman. He informed management that the union had taken a strike vote (R. 117). The representative of management again reiterated that all the Company sought was a legal contract, to which Mr. Lyon replied that if the Company agreed to the I.T.U. proposals it would have a legal contract. This was disputed by the Company (R. 117).

On November 26 the Company asked the unions' representatives to again look over the Company's proposal and they agreed to do so. On the following day—November 27—the final negotiation meeting was held. At this meeting the Company's representative stated that the union foreman, jurisdiction and I.T.U laws clauses were the stumbling blocks toward arriving at a written agreement; that in his opinion these clauses were illegal but that he was willing to arbitrate them (R. 117-119). To this suggestion, Vice President Lyon replied (R. 119):

"No, the Union feels these demands, these three demands are legal; you say they are illegal; we would not have proposed them had we thought they were illegal; we will not withdraw these demands."

In response, management's representative stated that the Company was unwilling to enter into a contract in violation of the Taft-Hartley Law (R. 119).

Following this, there was a short caucus which the I.T.U. and Local 165 representatives requested. Upon their return to the conference room, Vice President

Lyon of the I.T.U., speaking for them, said that the matter had been placed in his hands by Local 165, and that because of differences of opinion regarding legalities of certain questions and because the union was dissatisfied with wages paid and hours worked, "We say good day and goodbye." Thereupon, the union representatives left. The following day was Thanksgiving but on the day after that, November 29, 1957, the strike took place (R. 119).

#### ARGUMENT

The Judgment of the Court Below Enforcing, as Modified, the Order of the Board Is Correct and Should Be Affirmed

The essential question presented for consideration here is whether the contract provisions in controversy would import illegal union security provisions into any collective bargaining agreement into which they might be incorporated. The court below found that they would. It is not disputed that these two provisions, namely, the General Laws Clause and the Foreman Clause, were submitted on a "take them" or take a strike basis. Petitioners herein refused to negotiate any changes, refused to arbitrate their validity and adamantly insisted upon their acceptance by this employer on threat of strike if it refused. Upon its refusal to yield to this demand the strike was called.

The General Laws Clause Clearly Was Designed to Require Closed Shop Conditions in the Composing Room of Any Publisher Who Agreed to Its Incorporation in a Contract With the I.T.U. and One of Its Subordinate Locals

There can be no doubt about the design and purpose of the I.T.U. in submitting this clause. As pointed out, supra, that organization, since its inception, has always insisted upon maintaining closed shop conditions in

all composing rooms of newspapers where its members work. It would be an imposition on this Court to review more fully than has been done the decision in the A.N.P.A. case, supra, As that Court found:

"Upon passage of the Taft-Hartley Act . . . the ITU at once launched a campaign for the apparent purpose of expressing its disapproval and defiance of the Act and for the further purpose of instructing its subordinate locals and members on methods of avoiding the impact of the various provisions of the Act on the traditional practices and policies of the ITU." (193 F. 2d 782, at 789).

The I.T.U.'s coercive insistence that publishers entering into contracts with it shall agree that the General Laws of the I.T.U. in effect at the time of the execution of an agreement, not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in the contract was clearly in violation of the Act. A brief examination of the General Laws in effect at the time the strike occurred (G.C. Ex. 15; R. 383) demonstrates this beyond doubt.

The court below properly disposed of the "not in conflict with law clause" when it held that the I.T.U. and its Local 165 were acting at their peril when they sought to compel the employer to submit to the inclusion of the I.T.U. General Laws in the collective bargaining contract under negotiation. An important question on this point is who would determine whether there was any conflict of law in any General Laws provision. The answer is found in Article VIII, Section 7, of the Bylaws of the I.T.U. This section arrogates to the Executive Council of the I.T.U. authority to decide controversies and differences between

employers and subordinate unions. Thus, if an employer raised a question as to the illegality of any particular General Law, the I.T.U. Executive Council would make a unilateral determination of that question.

Of immediate interest on this point is Article II, Section 3, of the General Laws which reads:

"It is imperatively ordered that the executive officers of the International Typographical Union shall not submit any of its laws to arbitration. Nor shall any subordinate union arbitrate whether or not any General Law of the International Typographical Union is effective."

Article III, Section 1, of the General Laws of 1957, in effect at the time of these negotiations, consists of a diatribe against the Taft-Hartley Act. It asserts as a policy of the I.T.U.

". . . that we maintain our historic rights and prerogatives, to which we are entitled and which we have enjoyed for more than a century."

It further asserts that local unions shall not seek to qualify as representatives under the Act and that they shall not seek to execute so-called "union shop" contracts because, inter alia, there are features of such a "union shop" that are unacceptable to I.T.U. members.

Article III, Sections 2 and 4, of the General Laws gives the I.T.U. President complete authority over negotiations between subordinate locals and publishers.

Article V, dealing with foremen, provides in Section 11 that

"All persons performing the work of foremen or journeymen, at any branch of the printing

trade, in offices under the jurisdiction of the International Typographical Union; must be active members of the local union of their eraft..."

Article VII provides in Section 2 thereof that in offices under the jurisdiction of the I.T.U.

"... no person shall be eligible as a 'learner' on machines who is not a member of the International Typographical Union . . ."

# Section 5 of Article VII further provides:

"It is the unalterable policy of the International Typographical Union that only members in good standing shall be employed in installing, operating, maintaining, servicing and repairing all typesetting, linecasting, typecasting, phototypesetting, tape perforating and material-making machines and all other mechanical devices . . . wherever located."

The I.T.U. had never informed its members that any of these particular clauses were invalid under the Taft-Hartley amendments to the Act and, not-withstanding the decision in the A.N.P.A. case, it persisted in demanding acceptance of such General Laws provisions from the time of that decision in 1951 right down to the date of the strike herein late in 1957.

So what was the situation on November 27, 1957, when the I.T.U. and Local 165 broke off negotiations with the employer at Worcester and ordered a strike to take place two days later? The union representatives had adamantly refused to discuss the General Laws provision, to negotiate the provision or to negotiate or arbitrate any of the General Laws themselves. They stated flatly that the General Laws Clauses were legal notwithstanding the contention of the employer's

representatives that many of them had been held illegal and that many of them were obviously illegal on their face.<sup>14</sup>

Clearly the lower court was correct when it said that the unions were acting at their peril when they sought to compel the employers to submit to their demand for the inclusion of the I.T.U. laws in collective bargaining contracts under negotiation.

The Union Foreman Clause Constituted a Most Important Part in the Scheme of Petitioners Herein for the Maintenance of Closed Shop Conditions

Since the decree of the Court of Appeals for the Seventh Circuit enforcing the order of the Board in the A.N.P.A. case, supra, coercive insistence upon acceptance by employers of the I.T.U. demand that all persons performing the work of foremen must be active members of the local union has been illegal. It has not only been illegal but it has been in flagrant contempt of that decree.

Petitioners were so advised by the employer representatives during bargaining but their representatives, including the First Vice President of the I.T.U., refused to consider any change in the Foreman Clause language and made it one of the issues upon which they called a strike. Thus, petitioners placed themselves in further violation of Section 8(b)(1)(B) of the Act. Petitioners also are in contempt of the sweeping decree of the Seventh Circuit enforcing the order of the Board, prohibiting coercive action by petitioners to obtain their standard Union Foreman Clause. As the Court found (193 F. 2d 782, at 805):

<sup>&</sup>lt;sup>14</sup> Petitioners concede that certain of the General Laws contemplate closed shop conditions. See Brief for Petitioners, at pages 13-14.

"The respondents apparently thought that union foremen were important to their general scheme for maintaining closed shop conditions... The general scheme was secured by threats of strike, by restraint and coercion. Considering the record as a whole we find no basis for saying, contrary to the finding of the Trial Examiner and of the Board, that the respondents, the ITU and its agents did not restrain and coerce the employers in the selection of their representatives for the purposes of the adjustment of grievances in violation of § 8(b)(1)(B) of the Act..."

The record herein amply justifies what that Court said.

As pointed out by the Trial Examiner, petitioners were informed during the bargaining sessions that if they struck to obtain the Union Foreman Clause, the matter would be called to the attention of the Board with a request that it seek a citation for contempt of the decree. The strike was called and, as the record unquestionably shows, the Board did inform the petitioners herein of its intention to seek to have them cited for contempt on the Foreman Clause issue. Otherwise, why the letters appearing as General Counsel's Exhibit 12 and General Counsel's Exhibit 13 at pages 380-381 of the Record?

This Court can take official notice of the fact that prior to the institution of contempt proceedings, the Board notifies the offending party of its intention so to do, thereby giving it an opportunity to clear itself of contempt without appearing in a proceeding. Since such a notification undoubtedly was given to the petitioners in this case, it is important to observe what was done.

On January 16, 1958, when the strike was well into its second month, the President and Secretary-Treasurer of Local 165, addressed a letter to the publisher of Worcester Telegram Publishing Co., Inc., stating:

"This is to advise you that the clause in our proposed agreement calling for the employment of a member of this union as a foreman was not, and is not, an issue in the present lockout. We are now willing, as we have been at all times, to enter into an agreement without this clause if other issues are satisfactorily adjusted." (G.C. Ex. 12; R. 380-381).

Apparently this letter was not satisfactory to the Board. In the first place, it was obvious that there was no lockout by the employer but a strike by the petitioners. Secondly, the withdrawal of the clause was conditioned upon the adjustment of other issues satisfactorily to the union. So on January 24, 1958, Woodruff Randolph, President of the I.T.U., addressed a further letter to the Company in which he said:

"We hereby withdraw our demand for a contract clause calling for the employment of a member of this union as foreman." (G.C. Ex. 13; R. 381).

Thus, approximately two months after the strike had begun, the demand for a union foreman clause was withdrawn but the petitioners did not call off the strike when they withdrew that demand. In fact, they have never called off the strike.

The court below was correct when it found that

they wanted it, the unions violated § 8(b)(2) of

the Act... for the effect of the clause would be to cause the employers to discriminate in favor of union men in appointing their foremen thereby encouraging aspirants for that position to join the union." (278 F. 2d 6, at p. 12).

The court below also was correct when it found that

"by insisting that the foremen must be union members, the unions were restraining and coercing the employers in the selection of their representatives for grievance adjustment purposes. Not only would the clause as proposed by the unions limit the employers' choice of foremen to union members, but it would also give the unions power to force the discharge or demotion of a foreman by expelling him from the union." (Id. at 12).

## CONCLUSION

For the reasons set forth above, we respectfully urge that the judgment of the court below be affirmed.

Respectfully submitted,

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No. 340

# In the Supreme Court of the United States

OCTOBER TERM, 1960

International, Typographical Union, AFL-CIO, Haverill, Typographical Union No. 38 and Worcester Typographical Union, No. 165, petitioners

NATIONAL LABOR RELATIONS BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

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# In the Supreme Court of the United States

OCTOBER TERM, 1960

### No. 340

International Typographical Union, AFL-CIO, Haverhill Typographical Union No. 38 and Worcester Typographical Union No. 165, petitioners

v.

### NATIONAL LABOR RELATIONS BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

### BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

### OPINIONS BELOW

The opinion of the court of appeals (R. 513-527) is reported at 278 F. 2d 6. The findings of fact, conclusions of law, and order of the Board (R. 480-485, 412-468) are reported at 123 NLRB 806.

### JURISDICTION .

The decree of the court of appeals was entered on May 10, 1960 (R. 527-528). A petition for rehearing was denied on June 10, 1960 (R. 529). The petition for a writ of certiorari was filed on August 18, 1960, and was granted on November 7, 1960, 364 U.S. 878 (R. 529).

#### STATUTE INVOLVED

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 29 U.S.C. 151, et seq.), are as follows:

SEC. 7. Employees shall have the right to selforganization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

SEC. 8(a). It shall be an unfair labor prac-

tice for an employer-

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or

the effective date of such agreement, whichever is the later \* \* \* Provided further, That
no employer shall justify any discrimination
against an employee for nonmembership in a
labor organization (A) if he has reasonable
grounds for believing that such membership
was not available to the employee on the same
terms and conditions generally applicable to
other members, or (B) if he has reasonable
grounds for believing that membership was
denied or terminated for reasons other than
the failure of the employee to tender the
periodic dues and the initiation fees uniformly
required as a condition of acquiring or retaining membership;

(b) It shall be an unfair labor practice for

a labor organization or its agents-

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(3) to refuse to bargain collectively with an

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employer provided it is the representative of his employees subject to the provisions of section 9(a);

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: \* \* \*

### QUESTIONS PRESENTED

Petitioner unions insisted, as a condition to the execution of a collective bargaining agreement, that the employers accept a clause incorporating the General Laws of petitioner International ("ITU") "not in conflict with." \* federal or state law," and a clause vesting exclusive hiring authority in a foreman required to be a union member. The questions presented are:

- 1. Whether the Board properly concluded that acceptance of the proposed Laws and foreman clauses would have established an employment system which conditioned employment upon union membership, in violation of Sections 8(a)(3) and 8(b)(2) of the National Labor Relations Act.
- 2. If the first question is answered in the affirmative, these further questions are reached:

- (a) Whether petitioners violated the bargaining obligation imposed by Section 8(b)(3) of the Act by refusing to execute a contract unless it contained the illegal Laws and foreman clauses.
- (b) Whether petitioners violated Sections 8(b)(2) and 8(b)(1)(B) of the Act by striking to compel the employers to include the illegal Laws and foreman clauses in a contract.
  - (c) Whether the Board's order is proper.
- (d) Whether petitioner International was properly held jointly responsible for the unfair labor practices found.

#### STATEMENT

### A. THE BOARD'S FINDINGS

## 1. The Worcester negotiations

Worcester Telegram Publishing Company, Inc., ("Worcester") publishes the Worcester Telegram, a daily newspaper. Petitioner Local 165 has represented Worcester's composing room employees for many years. A collective bargaining agreement for these employees expired on December 31, 1954. In June 1955, following unsuccessful negotiations for a new contract, Worcester granted a wage increase, retroactive to January 1, 1955. On August 21, 1956, Local 165 submitted a proposed new contract to Worcester.

Article I, Section 3 of the proposed contract redefined Local 165's jurisdiction to include "paste-make-up" operations which had been performed for many years by artists who worked outside the composing room and who were not members of Local 165 (R. 421-422, 448-449, 488-489). The section further in-

cluded within Local 165's jurisdiction operations in connection with any new printing methods or processes which Worcester might introduce during the term of the contract.

Article I, Section 5 of the proposed contract provided, as had the 1954 contract, that the composing room foreman must be a member of Local 165 and that he should have exclusive control over employment in the composing room. It read (R. 349, 420-421):

The operation, authority, hiring for and control of each composing room shall be vested exclusively in the office through its representative, the foreman, who shall be a member of the Union \* \*

The Union shall not discipline the foreman for carrying out written instructions of the publisher or his representative authorized by this Agreement.

Article I, Section 7 of the proposed contract provided, as had the 1954 contract, that the ITU General Laws "not in conflict with state or federal law, shall govern relations between the parties on those subjects concerning which no provision is made in this contract" (R. 421). The ITU General Laws, inter alia, claimed jurisdiction for the ITU over all printing and mailing work, required foremen and journeymen employed in the printing trades to be active members of the local union, reserved to the ITU exclusive control over apprenticeship and employment priority systems, and permitted only ITU members to install, operate, or service machines and devices used in composing rooms (R. 422-424).

See, also, the Board's brief in National Labor Relations Board v. News Syndicate Company, Inc., et al., this Term, pp. 6-7,

The first meeting on Local 165's contract proposals was held on October 14, 1956. General Manager Steele advised the Union representatives that it would be useless to discuss other matters until the parties reached agreement on the jurisdiction clause and the clause incorporating the ITU's General Laws (R. 424; 179). Union President Quinn declared that the Union's proposed language on these clauses "must be taken as it was submitted" (R. 424; 110).

· Worcester submitted a counterproposal at a meeting on November 1 (R. 424; 371-372). The Company offered the Union jurisdiction over all composing room work, including "but " " not limited to" the classifications enumerated in the 1954 contract. It proposed inclusion of the ITU General Laws "to the extent that they are negotiated and become a part of the contract." Finally, the Company offered to discuss all other contract matters once agreement was reached upon the "matters of jurisdiction and observance of ITU General Laws." Union President Quinn stated that the Union wanted a written contract, but that such a contract "must contain language [on jurisdiction and the ITU General Laws] approved by Indianapolis, the ITU headquarters, and . that was it" (R. 425; 111).

The negotiators again met on November 8, November 29, and December 6, but failed to reach agreement on the "key clauses" of jurisdiction and incorporation of the ITU General Laws (R. 425-426; 182-185). At the next meeting, on January 8, 1957, the Union representatives were accompanied by ITU International Representative LaMothe (R. 427; 187).

LaMothe insisted that "the union language must be taken" on jurisdiction and incorporation of the ITU General Laws (R. 427; 112). Worcester offered to negotiate the General Laws individually (R. 427; 112, 118). LaMothe refused this offer and said he would notify the federal and state mediation services that the parties had reached a stalemate (R. 427; 112).

At a meeting arranged by the mediation services on January 30, Worcester's attorney, Elisha Hanson, declared that Worcester would not be "bludgeoned" into an illegal contract and hence would not accept the ITU General Laws in toto (R. 428; 113). He submitted a counterproposal on February 6. It contained provisions respecting hours, wages, and conditions of employment, but eliminated the 1954 contract requirement that the composing room foreman be a member of the Union, contained no reference to the ITU General Laws, and preserved the Union's representation over skilled work normally performed in the composing room before January 1, 1959 (R. 429; 113, G.C. Exh. 5).

The parties met on February 8, but again failed to agree on jurisdiction and the ITU General Laws (R. 429; 114). Following Hanson's suggestion, the parties discussed and agreed upon the terms of an interim arrangement covering wages, hours, and conditions of employment (R. 429-430; 114-115, 119, 193-194). On February 14, the Union advised Worcester that its members had agreed to work under the terms of this arrangement, reserving the right

to resume negotiations for a complete contract at any time (R. 430; 376–377).

The parties did not meet again until November 26, 1957 (R. 432; 379-380). Charles M. Lyon, first vice president of the ITU, was the principal spokesman for the Union (R. 432; 116-117). Lyon disagreed with Hanson's insistence that the Union's proposals on jurisdiction, incorporation of the ITU General Laws, and foremen were illegal (R. 432-433; 117). After some discussion, Hanson suggested that the parties could resolve their economic differences and agree on a contract if the Union would compromise its demands on the three key clauses (R. 433-434; 117-118, 169, 170). Lyon asserted that the Union 'was fighting for job security' and announced that a strike vote had been taken (R. 434; 117).

The next day, November 27, Lyon refused Hanson's offer to submit the key clauses to arbitration (R. 434; 118-119). Following a union caucus, Lyon announced that the Union had placed the matter in his hands, and "because of differences of opinion regarding legalities of certain questions, because the Union was dissatisfied with wages paid and hours worked, 'we say good day and goodbye'" (ibid.).

# 2. The Haverhill negotiations ?

Petitioner Local '38' has represented Haverhill's composing room employees for many years. In

<sup>&</sup>lt;sup>2</sup> This summary of facts is based upon the record in Alpert v. ITU, 161 F. Supp. 427 (D. Mass.), an injunction proceeding brought by the Board under Section 10(j) of the Act, which the parties made part of the record in the proceeding before the Board (R. 415-416).

December 1956, Local 38 submitted a proposed contract to Haverhill containing the same jurisdiction, ITU General Laws, and foreman clauses involved in the Worcester negotiations (R. 435; 395-411). The parties met five times between December 1956 and November 8, 1957, without reaching agreement on any major issue. Haverhill rejected the Union's jurisdiction clause in so far as it covered processes and machines no longer in use, refused to accept the clause on the ITU General Laws, and objected in principle to the foreman clause (R. 436; 41-44). The parties also failed to agree on wage and vacation provisions (R. 437-438; 47-49).

On November 19, 1957, after the composing room employees had engaged in a two-hour work stoppage, Haverhill arranged a meeting between Manager Phillips and Associate Manager Parry of the New England Daily Newspaper Association, and Vice-President Lyon and International Representative LaMothe of the ITU (R. 438; 72-73). Phillips stated that the jurisdiction, ITU General Laws, and foreman clauses of the proposed contract were illegal and offered to submit a counterproposal (R. 439; 58). Lyon defended the legality of the disputed clauses and ended the meeting by saying he was "going to pull the boys out" (R. 439; 39, 58). Lyon and LaMothe then went to the composing room, and, about a minute later, the employees went out on strike (R. 439-440; 58). The strike was sanctioned by the ITU (R. 443; 97).

At the request of federal and state mediators, Phillips and Parry met with Lyon, LaMothe, and the Union scale committee on November 21. The parties reviewed the Union's proposed contract section-by-section but failed to agree on any material provision (R. 440; 81-82). A Haverhill proposal to negotiate the ITU General Laws was rejected by Lyon, who declared that the Union had to have an ITU-approved-contract (R. 441; 64-65).

Another meeting was held on November 23. The Union rejected a Haverhill proposal to make foreman membership in the Union optional (R. 442; 68-69). At the suggestion of the conciliators, the negotiators then summarized the basic bargaining issues as follows (R. 442):

First was the limitation of, restriction of the use of teletype tape. The second was jurisdiction over new processes, and third was refusal of the employer to agree that the foreman shall be a member of the union, and the fourth was refusal of the employer to accept the general laws of the International Typographical Union.

The meeting ended when Lyon refused Haverhill's offer of full arbitration of these matters (R. 442; 72).

# B. THE BOARD'S CONCLUSIONS AND ORDER

Upon the foregoing facts, the Board found that the units described in petitioner's proposed jurisdiction clauses were not appropriate for collective bargaining purposes, and that the proposed clauses incorporating the ITU General Laws and vesting exclusive employment authority in a foreman required to be a union member were also illegal in that they

established closed-shop conditions in the composing room (R. 481, 444-452). Accordingly, the Board concluded that, by demanding that Worcester and Haverhill execute a contract containing these illegal clauses, petitioners refused to bargain collectively, in violation of Section 8(b)(3) of the Act (R. 481, 456). The Board further found that the primary purpose of the strikes against Worcester and Haverhill was to force them to accept these illegal clauses, and therefore, by engaging in this strike activity for the foreman and ITU General Laws clauses, petitioners attempted to cause discrimination in violation of Section 8(b)(2) of the Act (R. 481, 456-458). Finally, the Board found that, by striking for the foreman clause, petitioners restrained and coerced-Worcester and Haverhill in the selection of their representatives for the adjustment of grievances, thereby also violating Section 8(b)(1)(B) (R. 481, 458).

The Board's order (R. 481-485) required petitioners to cease and desist from the unfair labor practices found, and from in any other manner causing or attempting to cause Worcester or Haverhill to discriminate against employees in violation of Section 8(a)(3) of the Act. Affirmatively, the order required petitioners, upon request, to bargain collectively with Worcester or Haverhill, and to post appropriate notices.

The Board found it unnecessary to pass upon the Trial Examiner's finding that petitioners also violated Section 8(b) (2) by striking for the jurisdiction clause (R. 481, n. 2).

<sup>&#</sup>x27;The Board further found that, in so far as the strike also encompassed a demand for the apprenticeship and priority systems established in the General Laws, it further violated Section

# C. THE DECISION OF THE COURT OF APPEALS

The court of appeals agreed with the Board that the Laws clause proposed by petitioners would have established illegal closed-shop conditions in the composing room, and also agreed that the proposed foreman clause was illegal in that it required employers to discriminate in favor of union men in appointing their foremen, thereby encouraging employee aspirants for promotion to join the Union (R. 520–525). The court thus affirmed the Board's unfair labor practice findings based upon petitioners' demand and strike for these clauses, and enforced its order. However, it modified the order by restricting it to the specific practices found to be unlawful, and practices "persuasively related thereto" (R. 526–527).

# SUMMARY OF ARGUMENT

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A. Section 8(b)(2) of the Act makes it an unfair labor practice for a labor organization "to cause or attempt to cause an employer to discriminate" in violation of Section 8(a)(3). In turn, Section 8(a)(3) makes it an unfair labor practice for an employer "by discrimination in regard to hire or

<sup>8(</sup>b) (2), since they delegated to the union exclusive control over their establishment and maintenance (R. 481, n. 2).

<sup>&</sup>lt;sup>5</sup> The court rejected the Board's finding that the jurisdiction clause demanded by petitioners was illegal and hence that petitioners' demand for this clause was violative of its bargaining obligations under the Act (R. 518-520). The Board did not seek certiorari on this issue.

tenure of employment or any term or condition of employment to encourage or discourate membership in any labor organization." The basic issue here, as in National Labor Relations Board v. News Syndicate Company, Inc., et al., No. 339, this Term, is whether a contract which incorporates the ITU General Laws "not in conflict with state or federal law" violates Sections 8(a)(3) and 8(b)(2) in that it may be deemed to include those provisions of the Laws limiting employment to union members.

This case also presents the question, which is also a subsidiary issue in No. 339, whether Section 8(a)(3) is violated by a contract provision which delegates exclusive control over hiring to a foreman who is required to be a union member and thus to abide by union rules which condition employment on union membership. However, contrary to the situation in No. 339, a contract with the questionable clauses was not actually entered into here, and hence the legality of the clauses under Sections 8(a)(3) and 8(b)(2) is presented only indirectly. That is, the clauses must first be found illegal in order to sustain the Board's findings that petitioners' insistence thereon constituted a violation of the bargaining obligation imposed by Section 8(b)(3) and their subsequent resort to strike pressure to obtain these clauses constituted an independent attempt to cause discrimination in violation of Section 8(b)(2).

B. Although, as was recognized in Chief Judge Woodbury's opinion for the Court of Appeals (R. 525), the "question is not free from doubt", we think the court was correct in concluding that the Board was entitled to find that the General Laws clause, demanded by petitioners, would have imposed closed shop conditions in violation of Section 8(a)(3) and 8(b)(2) of the Act. As shown in the Board's brief in No. 339, the ITU has historically maintained. closed shop conditions in the printing industry by means of contracts incorporating its General Laws, which, inter alia, restricted employment to union members and vested exclusive hiring authority in foremen required to be union members. Moreover, even after the 1947 amendments to the Act outlawed the closed shop, the ITU sought to continue it. Against this background, the contracting parties could reasonably foresee that, if they incorporated the General Laws and merely added the proviso "not in conflict with law," the employees would not undertake to decide for themselves which of the Laws were excluded as illegal but instead would be more likely to conclude that all of the Laws were incorporated, including those requiring union membership as a condition of employment, at least until an appropriate

tribunal should rule otherwise. In the Board's view, employees in an industrial plant could not be expected to play the role of lawyer or judge and to make a nice calculation as to which, if any, of the General Laws would be inoperative as "in conflict with law." Accordingly, if the parties adopted the vague exclusionary technique of the Laws clause, the practical effect would be to establish closed shop conditions the same as if they entered into a contract which expressly conditioned employment on union membership. The validity of this conclusion is confirmed by the fact that during negotiations here petitioners refused to discuss or arbitrate even the palpably illegal closed shop provisions in the General Laws, taking the position that the Laws clause had to be accepted in toto as proposed.

Even if the parties themselves understood that "not in conflict with law" was intended to exclude the closed shop provisions of the General Laws from the contract—an assumption which is contrary to the understanding of the publishers in this case—that does not end the matter. Since a union security provision has an impact on employees, it is necessary to consider not only what it means to the contracting parties, but also how the employees are apt to view it. Here, as the Board found, it was reasonably fore-seeable that the employees would interpret the words used as providing for a closed shop.

C. The further clause which petitioners demanded—vesting exclusive authority over composing room employment in a foreman who was required to be a member of the ITU—likewise would have imposed

closed shop conditions in violation of Sections 8(a)(3) and 8(b)(2). By vesting hiring authority in a foreman, subject only to the requirement that he be a union member, the employer leaves the foreman free to exercise that authority in accordance with union rules. Indeed, the foreman would be prompted to abide by those rules for a failure to do so would jeopardize his membership in good standing, and, in term, his job as foreman. Thus, where, as here, the union rules accord preference in employment to union members, the parties, by delegating hiring authority to a foreman who is required to be a union member, must be deemed to have intended to maintain a closed shop.

This conclusion is confirmed by the bargaining negotiations here. First, the foreman clause was coupled with the General Laws clause, which, as we have shown, was tantamount to incorporating the closed shop provisions of the Laws in the contract. Second, the vesting of hiring authority in a foreman, who was required to be a union member, traditionally has been an important part of the ITU's scheme for maintaining closed shop conditions. Recognizing this, the publishers resisted the demand for the foreman clause, and offered instead to make union membership for foremen optional. Petitioners, however, flatly rejected any proposal that would minimize their control over the foreman, and continued to insist on a provision requiring him to be a union member.

In addition, the foreman clause violated Sections 8(a)(3) and 8(b)(2) because, as the court below concluded, it would have caused "the employers to dis-

criminate in favor of union men in appointing their foremen thereby encouraging aspirants for that position to join the union" (R. 522).

## II.

The facts show that petitioners not only proposed the illegal Laws and foreman clauses, but made their acceptance by the publishers a condition to the execution of a collective bargaining contract. It is settled law that when a union insists upon an illegal condition it violates its bargaining obligation under the Act. It is irrelevant that the union may in good faith believe that the condition is not unlawful. Cf. National Labor Relations Board v. Wooster Division of Borg-Warner Corp., 356 U.S. 342.

#### III.

Petitioners called a strike to compel acceptance of the illegal foreman and General Laws clauses. The ruling of the court below that strike action in support of such illegal demands is an attempt to cause discrimination in violation of Section 8(b)(2) comports with the rulings of the other courts of appeals which have considered the question. In addition, the strike to obtain the foreman clause violated Section 8(b)(1)(B) of the Act. That section makes it an unfair labor practice for a labor organization or its agents "to restrain or coerce " " an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances" (emphasis supplied). Since the foremen involved are manage-

ment representatives for the adjustment of grievances, by striking to force the publishers to appoint only foremen who were, or were willing to become, union members, petitioners put pressure on the publishers to confine their choice to that class, thereby necessarily restraining them in their selection of a representative for grievance purposes:

### IV.

The Board's cease and desist order is "adapted to the situation which calls for redress" (National Labor Relations Board v. Mackay Radio & Telegraph Company, 304 U.S. 333, 348), and hence is entitled to stand. Contrary to petitioners' assertion, the order does not restrain them from including in a contract provisions in the General Laws of unquestioned validity; it merely precludes them from insisting upon a Laws clause that does not clearly identify and exclude from the contract those provisions in the Laws, which are of unquestioned invalidity, imposing closed shop conditions. Further, the Board's order does not preclude petitioners from negotiating about the foreman's responsibilities but merely proscribes imposing the condition that the foreman be a union memberat least, where, as here, there are outstanding union rules which require that union members be preferred for employment. Finally, the Board's order does not suffer from vagueness, for its decision furnishes a sufficiently definite standard by which petitioners may assess the validity of particular provisions of the Laws.

In view of the fact that the illegal demands of Locals 37 and 165 were made pursuant to policies established by the ITU, and since Vice-President Lyon and International Representative LaMothe actively participated in negotiations mainly to further these ITU policies, the court below properly approved the Board's finding that the ITU and its executive council were jointly liable for the unfair labor practices found.

#### ARGUMENT

I. THE BOARD PROPERLY FOUND THAT ACCEPTANCE OF PETITIONERS' PROPOSED LAWS AND FOREMAN CLAUSES WOULD HAVE ESTABLISHED AN EMPLOYMENT SYSTEM WHICH CONDITIONED EMPLOYMENT ON UNION MEMBERSHIP, IN VIOLATION OF SECTIONS 8(a)(3) AND 8(b)(2) OF THE ACT

#### A. INTRODUCTION

Section 8(b) (2) of the Act makes it an unfair labor practice for a labor organization "to cause or attempt to cause an employer to discriminate" in violation of Section. 8(a) (3). The latter provision, in turn, makes it an unfair labor practice for an employer "by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization". Here, as in the companion case, National Labor Relations Board v. News Syndicate Company, Inc., et al., No. 339, this Term, the basic issue is whether a contract which incorporates the ITU General Laws "not in conflict with state or federal law"

violates Sections 8(a)(3) and 8(b)(2) in that it may be deemed to include those provisions of the Laws limiting employment to union members. In addition, this case presents the further question, which is also a subsidiary issue in No. 339 (see the Board's brief in No. 339, p. 4, n. 1), whether the ban against discrimination imposed by Section 8(a)(3) is also violated by a contract provision which delegates exclusive control over hiring to a foreman who is required to be a union member and thus to abide by union rules which condition employment upon union membership.

In No. 339, a contract with those clauses was actually entered into by the union and the employer. The validity of such a contract under Section 8(a)(3) and the corollary Section 8(b)(2) is thus directly presented there. For it is settled (Board brief in No. 339, p. 20) that, if a contract has closed shop provisions, the mere existence of those provisions, even apart from their enforcement, violates those Sections.

Here, on the other hand, a contract with the questionable clauses was not entered into, for the employers resisted the union's efforts to secure them. Accordingly, the legality of the clauses under Sections 8(a)(3) and 8(b)(2) is presented only indirectly,

Petitioners' contention (Br. 21, n. 11) that a "contract cannot, until some action is taken under it, 'cause' discrimination within the meaning of Section 8(b) (2)," is negated by the cases set forth in the Board's brief in No. 339 (p. 20, n. 11). They hold that a contract which conditions employment upon union membership, by itself; effects a discrimination which encourages union membership; it classifies employees into two groups—those who are union members and those who are not—and declares that only the former can obtain employment.

namely, as a predicate for the Board's finding that petitioners' insistence upon such clauses constituted a violation of the bargaining obligation imposed by Section 8(b)(3) and their subsequent resort to strike pressure to obtain these clauses constituted an independent attempt to cause discrimination in violation of Section 8(b)(2). In other words, the Board's findings that the bargaining violated section 8(b)(3) and that the strikes violated Section 8(b)(2) are contingent upon the validity of its finding that the clauses sought by petitioners were illegal—that they would have violated Sections 8(a)(3) and 8(b)(2) had they been adopted. Accordingly, the threshold issue here is the same as that in No.339.

Viewed in this light, it becomes plain that petitioners are mistaken in asserting (Br. 14-15, 28-29, 37) that the Board's case rests on the theory that "the contract proposals here in issue were an 'attempt' to cause discrimination". The Board did not find that the proposal of the clauses was an attempt to cause discrimination within the meaning of Section 8(b)(2), but rather that it constituted a refusal to bargain within the meaning of Section 8(b)(3)—for petitioners were insisting on provisions which, had they been adopted, would have been illegal. Similarly, the Board's Section 8(b)(2) finding was not based on the mere proposal of the illegal clauses but on the fact that strike pressure was exarted to obtain such clauses.

With the issues in this case thus clarified, we shall show first that the General Laws and foreman clauses sought by petitioners would have established closed shop conditions in violation of Sections 8(a)(3) and 8(b)(2). We shall then show that the Board properly found that petitioners insistence on those illegal clauses violated Section 8(b)(3), and that their strikes to secure them violated Section 8(b)(2).

### B. THE GENERAL LAWS CLAUSE

The reasons supporting the Board's conclusion that the General Laws clause violates Sections 8(a)(3) and 8(b)(2) are fully stated in our brief in No. 339, to which the Court is respectfully referred. There we show that the ITU historically maintained closed shop conditions in the printing industry by means of contracts incorporating its General Laws, which interalia restricted employment to union members and vested exclusive hiring authority in foremen required to be union members, and that, even after the 1947 amendments to the Act outlawed the closed shop, the ITU sought to continue it. In the context of industrial realities, the contracting parties could reasonably foresee that, if they incorporated the General Laws and merely added the proviso "not in conflict with law," the employees would not undertake to decide for themselves which of the Laws were excluded as illegal but as a practical matter, not being judges or lawyers, would treat all of the Laws as incorporated, including those requiring union membership as a condition of employment, at least until an appropriate tribunal should rule otherwise. Accordingly, if the parties adopted the vague exclu-

The Board also found that the strike to secure the foreman Clause violated Section 8(b)(1)(B). We shall likewise demonstrate the propriety of that finding.

sionary technique of the Laws clause, they must be deemed to have intended to operate under closed shop conditions no less than if they entered into a contract which expressly conditioned employment on union membership.

The negotiations here confirm the validity of the Board's view of the matter. As shown (pp. 7-11, supra), the publishers refused to incorporate the General Laws in toto on the ground that this would establish a closed shop, and offered instead to negotiate which laws should be included in the contract. Petitioners, however, refused to discuss or arbitrate even the palpably illegal closed-shop provisions in the General Laws, taking the position that the Laws clause had to be accepted as proposed. In short, it is plain that the publishers in fact understood that, in insisting upon the Laws clause, petitioners were calling for the execution and enforcement of contracts contemplating closed-shop conditions in the composing rooms, and petitioners' intransigence at the bargaining table confirmed that belief.

<sup>\*</sup>Petitioners contend (Br. 16, n. 9), that they were willing "to negotiate into the agreement any matter covered by the General Laws." This is negated by the evidence summarized in the Statement, supra, showing the Union's persistent refusal to particularize which of the Laws were included. Moreover, President Mahoney of Local 165, who testified concerning the willingness to negotiate, explained that this did not mean that the union negotiators would "take the book of laws and sit down and negotiate and say we will negotiate law No. 1, whether it applies to the contract or not, we would not do that" (R. 234-235). Mahoney conceded that as a member of the ITU in good standing he would not disobey the admonition in the General Laws against negotiation of their terms (R. 216-217; G.C. Exh. 15, pp. 84-85, R. 383).

In the practical context which the Board had to consider, petitioners appear somewhat academic in their contention (Br. 16-27) that the plain language of the proviso to the Laws clause evidences an intention to exclude those provisions which are contrary to law; and, if this be the intention of the contracting parties, the effect of the contract cannot be changed enerely because third parties, the employees, might happen to interpret it differently. Cf. Honolulu Star-Bulletin v. National Labor Relations Board, 274 F. 2d 567, 570 (C.A.D.C.). Even if the parties themselves understood that "not in conflict with law" was intended to exclude the closed shop provisions of the General Laws from the contract -an assumption which is contrary to the understanding of the publishers in this case—it does not follow that this ends the matter. Since the Act gives employees the right to obtain employment without being union members and a contract provision requiring such membership, standing alone and apart from its enforcement,

The analysis is not aided by the fact that the proposed contracts defined journeyman without regard to union membership requirements and the proviso to the Laws clause added that the laws would govern "those subjects concerning which no provision is made in this contract" (R. 351). As the court below noted (R. 523), the "provision that contract terms alone shall govern with respect to all matters as to which it makes any provision does not call for extended consideration, for it is clear that local unions would not, and indeed could not, under ITU rules and regulations, enter into any collective bargaining agreement without ITU approval, and ITU's insistence that 'Union language must be taken' with respect to its general laws demonstrates that ITU would not approve any contract provision substantially in conflict with its laws." See, also, Board brief in No. 339, p. 42, n. 28.

abridges that right, it is necessary to consider not only what the words used mean to the contracting parties, but also what they are likely to mean to the employees, in assessing the validity of a union-security clause. The circumstance that a union-security provision has an impact beyond the contracting parties does at least impose upon them the responsibility for the foreseeable consequence of their conduct on the employees affected thereby. In no meaningful sense can the employees be regarded as "strangers" to a collective bargaining agreement negotiated on their behalf. Here the Board was amply justified in finding that it was reasonably foreseeable that the employees would treat the words used as providing for a closed shop.

In sum, in the light of the ITU's past history of closed shop practices and the role played by the General Laws in maintaining those practices, the practical effect of incorporating the General Laws subject to a vague proviso "not in conflict with law" was that the employees would regard all of the laws as incor-

The problem was viewed this way, not only by the court below (R. 524-525), but also by the Second Circuit in National Labor Relations Board v. News Syndicate Company, Inc., et al., 279 F. 2d 323, 328, certiorari granted, 364 U.S. 877, No. 339, this Term (causing petitioners to suggest that the Second Circuit "spoke "elliptically", Br. 21, no. 11). The only difference between the two courts is that, insofar as foreseed able employee response is concerned, the Second Circuit would draw a distinction between the exclusionary clause used here and a savings clause of the type used in Red Star Express Lines v. National Labor Relations Board, 196 F. 2d 78 (C.A. 2), whereas the court below could find no meaningful distinction between the two. For the reasons set forth in our brief in No. 339, pp. 39-41, we submit that the court below was correct.

porated, including the closed shop provisions, at least until an appropriate tribunal should rule otherwise. Hence, the Board and the court below properly concluded that the General Laws clause, demanded by petitioners, would have imposed closed shop conditions in violation of Sections 8(a)(3) and 8((b)(2) of the Act.

## C. THE FOREMAN CLAUSE

The further clause on which petitioners insistedvesting exclusive authority over composing room employment in a foreman who was required to be a member of the ITU-likewise would have imposed closed shop conditions in violation of Sections 8(a)(3) and 8(b)(2). As a union member the foreman, like other union members, would be obliged to follow the ITU General Laws." These Laws, as we have shown, provided that work in the composing room could only be performed by union members, established a system of priority among union members with respect to the assignment of work and in the event of layoffs, and required apprentices to meet standards regulated by the union. Accordingly, by delegating exclusive control over hiring to the foreman in these circumstances, the employer could expect that he would use that power. to favor union members and apprentices who had been approved for such membership, and that the em-

The Constitution of the ITU (G.C. Exh. 15, p. 15, R. 383) provides that it is the duty of each member of the ITU "to comply with all the laws, rules, regulations and decisions of the [ITU] and of any subordinate union to which the member may belong."

ployees themselves would so view such a grant of authority. Thus here, as with the Laws clause, if the employer were to agree to the foreman clause, he must be deemed to have intended to operate under closed shop conditions no less than if the contract had so

stated explicitly.

Petitioners contend, however (Br. 34-36), that, since the foreman was acting, at least in part, as the agent of the employer in hiring and in operating the composing room, it cannot be assumed that he would let his duty to the Union. (i.e., to prefer union members) take precedence over his duty to the employer (i.e., to hire and fire on the basis of competency). Indeed, petitioners point out that the proposed foreman clause (R. 349) provided that the "Union shall not discipline the foreman for carrying out written instructions of the publisher or his representatives authorized by this Agreement." But this contention could have validity only where, unlike here, the employer had not delegated complete control over hiring to the foreman, but had prescribed some standards for the discharge of that function or had otherwise reserved control over it. For if, as here, the foreman were given the power without more, there would be no reason for him to assume that he did not remain. free to exercise it in accord with his obligations as a union member, particularly since union membership was a specific qualification for the foreman job. Moreover, the foreman would be fortified in this view by the fact that a failure to discharge his union obligations would jeopardize his membership in good

standing, and, in turn, his job as foreman." Norwould the provision exempting the foreman from union discipline for carrying out written instructions of the publisher serve to alter this belief, for the instructions were limited to those authorized by the agreement and nothing in the agreement suggested that the publisher retained the right to instruct the foreman to ignore the Union's priority system and other rules for according preference to union members."

For these reasons, the Board was justified in concluding that the foreman clause demanded by petitioners contemplated that the foreman would exercise his hiring authority in accordance with the ITU rules granting employment preference to ITU members."

This conclusion is confirmed by the bargaining nego-

14 The principle reflected in this conclusion—viz., that an intent to operate under closed shop conditions may be inferred,

To assume that the foreman would discriminate against non-union employees in these circumstances does not require as a corollary that a non-union foreman may be presumed to discriminate against union employees (Pets. Br. 35). For, in the latter case, there is no showing of an outstanding rule prompting such discrimination by the foreman.

Similarly, even if, as petitioners assert (Br. 32), the question whether the Union could properly discipline a foreman if he obeyed the employer's instructions with respect to hire rather than the Union's, would be subject to arbitration, this, in itself, would hardly be sufficient to induce the foreman to risk a violation of the Union's rules and a loss of his membership in good standing. Contrary to petitioners' contention (Br. 35), the ITU has never given its foremen specific instructions as to which of the obligations under the Laws are in conflict with the Act and thus not binding on them in the discharge of the r hiring function (see Board brief in No. 339, p. 33).

tiations. First, the foreman clause was coupled with the General Laws clause, which, as we have shown, was tantamount to incorporating the closed shop provisions of the Laws in the contract. Second, the vesting of hiring authority in a foreman, who was required to be a union member, traditionally has been an important part of the ITU's program for maintaining closed shop conditions. See Board brief in No. 339, pp. 26-27; American Newspaper Publishers Association v. National Labor Relations Board, 193 F. 2d 782, 805 (C.A. 7), certiorari denied on this aspect of the case, 344 U.S. 812. Recognizing this, the publishers here resisted the Union's demand for the clause requiring that the foreman be a union member. And, in the Haverhill negotiations, they offered the alternative of making union/membership for foremen optional-on the theory that this would relieve the foreman of union control, for he could continue to keep his job though he lost his membership (R. 68-69). Petitioners, however, rejected any attempt to minimize their control over the foreman, and continued to insist on a provision requiring him

where, as here, an employer has delegated exclusive control over hiring to a foreman who is required to be a union member and the rules of the union condition employment upon union membership—was first enunciated by the Board in Enterprise Industrial Piping Co., 117 NLRB 995 (1957). This principle has subsequently been applied in a number of cases, in addition to the instant one (R. 449). See National Labor Relations Board v. United States Steel Corp. (American Bridge Division), 278 F. 2d 896, 898 (C.A. 3, en banc), petition for certiorari pending, No. 311, this Term; National Labor Relations Board v. Millwrights' Local 2232, 277 F. 2d 217, 220 (C.A. 5); National Labor Relations Board v. Local Union No. 450, Operating Engineers, 281 F. 2d 313 (C.A. 5), petition

to be a union member. In these circumstances, it was entirely reasonable for the Board to conclude that the foreman clause, no less than the Laws clause, was demanded as a means of establishing closed shop conditions in the composing room of the newspapers.<sup>15</sup>

for certiorari on another point pending, No. 467, this Term; Carpenters District Council of Detroit v. National Labor Relations Board (C.A.D.C.), December 8, 1960, 47 LRRM 2200.

The principle is analogous to that applied where the union has been delegated exclusive control over seniority. In that situation, too, the Board has concluded that the delegation establishes a discriminatory arrangement in violation of Section 8(a) (3). For by vesting the union with unfettered power, the employer leaves it free to decide seniority issues on the basis of the employees' compliance with union rules, and the employees will so understand and thus be encouraged to be good union members. (Pacific Intermountain Express Co., 107 NLRB 837 (1954), enforced, sub nom., National Labor Relations Board v. Pacific Intermountain Express Co., 228 F. 2d 170 (C.A. 8). See also, National Labor Relations Board v. Dallas General Drivers, 228 F. 2d 702 (C.A. 5); Machinists, Lodge 727 v. National Labor Relations Board, 279 F. 2d 761 C.A. 9), certiorari denied, 364 U.S. 890; Chief Freight Lines Co., 111 NLRB 22, 34, enforced sub. nom., National Relations Board v. Oklahoma City Drivers, Local 886, 235 F. 2d 105, 106 (C.A. 10); National Labor Relations Board v. Miranda Fuel Co. (C.A. 2), November 28, 1960, 47 LRRM 2178. The Board found that, in addition to the illegal General Laws and foreman clauses, petitioners' contract proposals contemplated the delegation of exclusive control over seniority to the ITU, R. 481, n. 2.

The contrary holding in News Syndicate, 279 F. 2d 323, 330 (C.A. 2), certiorari granted, 364 U.S. 877, No. 339, this Term, rests largely, as the court acknowledged, on its holding that the General Laws clause did not provide for a closed shop, a premise which we have shown to be erroneous. Similarly, the holding in Honolulu Star-Bulletin, 274 F. 2d 567, 569-570 (C.A.D.C.), that the foreman clause was not illegal rests on the same erroneous premise, and on the special circumstances of that case which are distinguishable from those here and in News Syndicate (see Board brief in No. 339, p. 22, n. 13).

In addition to being illegal for the foregoing reasons, the foreman clause also violated Sections 8(a)(3) and 8(b)(2) because, as the court below concluded (R. 522), it would have caused "the employers to discriminate in favor of union men in appointing their foremen thereby encouraging aspirants for that position to join the union." That is, unless an employee were a union member or willing to become one, the employer could not appoint him as a foreman,

Footnote 15 continued from p. 31.

Finally, Carpenters District Council of Milwaukee County v. National Labor Relations Board, 274 F. 2d 564 (C.A.D.C.), relied on by the court in both News Syndicate and Honolulu Star, is distinguishable from the situation here. In the Miltraukee case, the question was simply whether the foreman had relayed instructions to the men to stop work in his capacity as an agent for the employer or in his capacity as an agent for the union, and the court held that, absent evidence to the contrary, it could not be assumed that he was not acting in the former capacity. However, there had been no showing that the employer had delegated exclusive control over the work to the foreman, so that he was free to follow the dictates of the union rules. Where, as here, such delegation has occurred, there is no question that the foreman acts as the union's agent, for the employer has carved matters thus delegated out of the area of its prerogatives and made them solely the concern of the union. Cf. the discussion of the Milwaukee case in Carpenters District Council of Detroit v. National Labor Relations Board (C.A.D.C.), December 8, 1960, 47 LRRM 2200, 2203.

16 This is not a novel theory invented by the court, as petitioners suggest (Br. 30, 36). The Board has similarly recognized that: "A refusal to accord an actual employee the normal consideration for promotion to a higher position, albeit that of supervisor, based on protected concerted activity during such employment, would clearly be a violation of the rights of nonsupervisory employees." Pacific American Shipowners Association, 98 NLRB 582, 597 (1952). The right to refrain from union activity is expressly guaranteed by Section 7, and thus within the area of "protected concerted activity."

and, unless the employee after appointment remained a union member, the employer could not retain him as foreman." This would clearly discriminate against the class of employees who, though otherwise qualided for the job, were not willing to join the Union, or else encourage them to become union members and thus forego their Section 7 right to refrain from union activity without imperiling their employment opportunities. Either result would be contrary to Sections 8(a)(3) and 8(b)(2)."

II. THE BOARD PROPERLY FOUND THAT PETITIONERS RE-FUSED TO BARGAIN, IN VIOLATION OF SECTION 8(b)(3) OF THE ACT, BY INSISTING UPON ACCEPTANCE OF THE ILLEGAL LAWS AND FOREMAN CLAUSES AS A CONDITION PRECEDENT TO THE EXECUTION OF A CONTRACT

The facts summarized in the Statement, supra, leave no doubt that petitioners not only proposed the illegal Laws and foreman clauses but made their acceptance

Petitioners' contention (Br. 31-32) that the foreman clause would not limit the employer's choice, in that he was not precluded from selecting an employee who was not then a union member, is without substance. For, granted that the employee did not have to be a union member at the outset, he would have to be willing to become and remain one in order to keep the foreman job.

Nor would the protection of these provisions be lost because promotion to a supervisory position is involved and the 1947 amendments to the Act removed supervisors from its protection (see Pets. Br. 36-37). The effect of the union membership requirement on the Section 7 rights of aspirants for the foreman job, who are still employees, keeps it within the Act's reach. See National Labor Relations Board v. Vail Manufacturing Company, 158 F. 2d 664, 666-667 (C.A. 7), certiorari denied, 331 U.S. 835; n. 16, supra.

by the publishers a condition to the execution of a collective bargaining contract. In these circumstances, we submit that the Board and the court below were clearly warranted in concluding that petitioners' insistence on the illegal clauses constituted a refusal to bargain within the meaning of Section 8(b)(3) of the Act.

As the Board observed in the National Maritime case, where it first held that a union demand for a contract with closed shop provisions violated Section 8(b)(3): "Compliance with the Act's requirement of collective bargaining cannot be made dependent upon the acceptance of provisions in the agreement which, by their terms or in their en etuation, are repugnant to the Act's specific language or basic policy." National Maritime Union, 78 NLRB 971, 982 (1948). This decision was subsequently affirmed by the Second Circuit, National Labor Relations Board v. National Maritime Union, 175 F. 2d 686, certifrari denied, 338 U.S. 954. And, in National Labor Relations Board v. American National Insurance Company, 343 U.S. 395, this Court implicitly approved that holding by distinguishing the management functions clause involved in American National (which was not illegal) from such cases as National Maritime, "where a party bargained for a clause violative of an express provision of the Act" (p. 405, n. 15).10

<sup>&</sup>lt;sup>10</sup> Cf. National Labor Relations Board y. Puerto Rico Steamship Association, et al., 211 F. 2d 274, 275, 277 (C.A. 1); Douds v. International Longshoremen's Association, 241 F. 2d 278, 283 (C.A. 2); National Labor Relations Board v. International Brotherhood of Electrical Workers, 266 F. 2d 349 (C.A. 5).

Thus, it is settled that, when a union insists upon an illegal condition, it violates its bargaining obligation under the Act. Nor it is relevant that the union may have a good faith belief (see Pets. Br. 38-39) that the provisions which it demanded were legal. As the court below pointed out (R. 522-523), "to hold that good faith is a defense to the charge of refusal to bargain when the contract provision insisted upon is illegal per se is to put a premium on ignorance of the law or blind intransigency." Moreover, the decision of this Court in National Labor Relations Board v. Wooster Division of Borg-Warner Corp., 356 U.S. 342, makes clear that good faith is not a controlling factor in such a situation."

In Borg-Warner, the employer advanced, in good faith, a contract clause recognizing the local as the employees' bargaining representative instead of the International, the entity certified by the Board. The Court unanimously agreed that the employer's insistence on such a recognition clause violated the Act's bargaining requirements. Six members of the Court were of the view that the Act merely required bargaining with respect to wages, hours and other conditions of employment, and, since the question of who

Pose, also, Lion Oil Company v. National Labor Relations Board, 245 F. 2d 376, 379 (C.A. 8); National Labor Relations Board v. Taormina, 207 F. 2d 251, 254 (C.A. 5); Hartsell Mills, Inc. v. National Labor Relations Board, 111 F. 2d 291, 292 (C.A. 4); McQuay-Norris Manufacturing Company v. National Labor Relations Board, 116 F. 2d 748 (C.A. 7); certiorari denied, 313 U.S. 565; National Labor Relations Board v. Reed & Prince Manufacturing Company, 118 F. 2d 874, 883 (C.A. 1), certiorari denied, 313 U.S. 595.

was entitled to be recognized as the representative was outside this area, bargaining could not be compelled with respect to that subject. The remaining three members of the Court concurred on the ground that, to seek recognition for the local when the International had been certified, was contrary to Section 9 of the Act, and the Act did not compel bargaining with respect to matters which contravened its specific provisions (356 U.S. at 360, 362).<sup>21</sup>

The court below appears to have been on solid ground, therefore, in holding that a refusal to bargain is shown where, as here, the proposals demanded are contrary to requirements of the Act and, if adopted, would establish illegal employment conditions, and that the Board thus properly concluded that petitioners violated Section 8(b)(3) by conditioning execution of a contract on the illegal General Laws and foreman clauses.

<sup>21</sup> Borg-Warner also involved the validity of the employer's insistence on a ballot clause, which would have required the union, before calling a strike, to poll the employees in the bargaining unit. Five members of the Court likewise found that this subject was outside the area of mandatory bargaining, and that thus the employer's insistence on the ballot clause violated his bargaining obligation. Four members of the Court, however, found the insistence on the ballot clause not unlawful. Three members if the minority were of the view that, since the clause was not itself unlawful as was the recognition clause, the Act did not preclude a party from seeking to obtain it, so long as he acted in good faith (356 U.S. at 351-361). The fourth member of the minority, Mr. Justice Frankfurter, was of the view that the ballot clause was not "so clearly outside the reasonable range of industrial bargaining as to establish a refusal to bargain in good faith" (Id. at 351).

VIOLATED SECTION 8 (b) (2) OF THE ACT BY STRIKING TO COMPEL ACCEPTANCE OF THE ILLEGAL LAWS CLAUSE, AND SECTIONS 8 (b) (2) AND 8 (b) (1) (B) BY STRIKING FOR THE FOREMAN CLAUSE

As shown in the Statemen supra, pp. 9, 10), petitioners called the composing from employees at Worcester and Haverhill out on strike to compel acceptance of their bargaining demands. These demands included the foreman and General Laws clauses which illegally conditioned employment in the composing room upon union membership. The ruling of the court below, that strike action in support of such illegal demands is an attempt to cause discrimination in violation of Section 8(b)(2), is in accord with its own prior ruling and those of the other courts of appeals which have considered the question. National Labor Relations Board v. Puerto Rico Steamship Association, 211 F. 2d 274, 277 (C.A. 1); National Labor Relations Board v. National Maritime Union of America, 175 F. 2d 686, 689 (C.A. 2), certiorari denied, 338 U.S. 954; American Newspaper Publishers Association v. National Labor Relations Board, 193 F. 2d 782, 791-796, 802-804 (C.A. 7), certiorari denied on this point, 344 U.S. 812; United Mine Workers v.. National Labor Relations Board, 184 F. 2d 392, 393 (C.A.D.C.), certiorari denied, 340 U.S. 934; National Labor Relations Board v. Local Union No. 55, Carpenters District Council of Denver, 218 F. 2d 226, 232 (C.A. 10).

Nor is a different conclusion required by petitioners' contention (Br. 38-41) that they did not intend to execute illegal contracts or to have their proposed contracts applied in an unlawful manner. Since the clauses sought would, if adopted, have resulted in discrimination in violation of the Act, even apart from their enforcement (see p. 21, supra), a strike to obtain such clauses is an attempt to cause discrimination under Section 8(b)(2), without the necessity for showing a possible illegal application of the clauses. United Mine Workers v. National Labor Relations Board, supra, 184 F. 2d at 392-393; National Labor Relations Board v. Local Union No. 55, supra. As stated by the Tenth Circuit in the Local Union No. 55 case, concerning comparable union pressure to force the employer to sign an illegal union-security agreement (218 F. 2d at 232):

The respondents contend that their demands upon the Insurance Company would not have required the dismissal of any of its employees currently on the job. Certainly, the objective of the respondents was to compel the Insurance Company to cease employing nonunion men, including both its present and its future em-ployees. But, if the demands of respondents went only as far as they contend, there would still have been a violation of §8(b)(2) of the Act. That section proscribes union attempts to cause discrimination based on union membership, not only against specific employees, but also against potential employees. The "prohibition is not confined to those instances in which specific non-union employees are unlawfully discriminated against. It extends as well to instances in which the union, or its agents, seeks to cause the employer to accept conditions under which any non-union employee or job applicant will be unlawfully discriminated against." [Footnote omitted.]

In addition, the Board properly found that the strike to obtain the foreman clause violated Section 8(b)(1)(B) of the Act. That section makes it an unfair labor practice for a labor organization or its agents "to restrain or coerce \* \* \* an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances" (emphasis supplied). Petitioners do not deny that the composing room foremen at Worcester and Haverhill are management representatives for the adjustment of grievances. By striking to force the publishers to appoint only foremen who were or were willing to become union members, petitioners put pressure on the publishers to confine their choice to that class, thereby necessarily restraining them in their selection of a representative for grievance purposes. Indeed, as the court below noted (R. 521-522), not "only would the clause as proposed by the unions limit the employer's choice of foremen to union members, but it would also give the union power to force the discharge or demotion of a foreman by expelling him from the Union." Accordingly, it follows that petitioners violated Section 8(b)(1)(B) by striking for the foreman clause. See also, American Newspaper Publishers Association v. National Labor Relations Board, 193 F. 2d 782, 805 (C.A. 7), certiorari denied on this point, 344 U.S. 812.\*\*

<sup>&</sup>lt;sup>22</sup> For the reasons given in n. 17, supra, there is no merit to petitioners' contention (Br. 31-32) that their strike for the

## IV. THE BOARD'S ORDER IS PROPER

The Board's order, as enforced by the court below (R. 481-485, 526-528), requires petitioners to cease and desist from: (1) refusing to bargain by insisting upon acceptance of the foreman and General Laws clauses or by any "persuasively related" " means; (2) engaging in strike action for the purpose of compelling the publishers involved to execute an agreement requiring membership in the ITU as a condition of employment in violation of Section 8(a)(3); (3) in any "persuasively related" manner causing the publishers to discriminate in violation of Section 8(a)(3); and (4) restraining the publishers in the selection of 'a representative for grievance purposes by insistence upon acceptance of the foreman clause or in any "persuasively related" manner. Affirmatively, the order requires petitioners to bargain collectively upon request, and to post appropriate notices.

We submit that this order is well "adapted to the situation which calls for redress" (National Labor Relations Board v. Mackay Radio & Telegraph Company, 304 U.S. 333, 348), and hence entitled to stand. The contrary contentions advanced by petitioners (Br. 28, 41-42) appear to be insubstantial.

Thus, petitioners err in assuming that the order restrains them from including in a contract provisions in the General Laws of unquestioned validity, such as those dealing with wages, hours and condi-

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foreman clause was not violative of Section 8(b)(1)(B) because the employer was not required to confine his selection of a foreman to those who were already union members.

<sup>&</sup>lt;sup>23</sup> See National Labor Relations Board v. Express Publishing Co., 312 U.S. 426, 433.

Act. The order merely precludes them from insisting upon a Laws clause which does not clearly identify and exclude from the contract those provisions in the Laws which impose closed shop conditions.

Similarly, the Board's order with respect to the foreman clause does not preclude petitioners from negotiating about the foreman's duties, responsibilities, and qualifications. It merely proscribes their imposing the condition that the foreman be a union member in order to keep his job—at least, where, as here, there are rules of the union outstanding which require that preference in employment be given to union members.

Finally, the fact that the Board's order does not spell out in detail which of the provisions of the General Laws violate the Act and which do not, does not render the order defective. Having found that petitioners violated the Act by a specific course of conduct-i.e., insisting on the General Laws and foreman clauses—the Board has fulfilled its duty under the statute by prescribing a remedy for the unfair labor practices found and those integrally related thereto. In so doing, the Board has not left petitioners in the dark, but has furnished, in its decision, a definite standard by which they may assess the validity of particular provisons of the Laws. It has indicated that those provisions which expressly condition employment on union membership contravene the Act, as do those which delegate to a union foreman control over hiring, seniority and apprenticeship subject to rules which require him to give preference to union members.

V. THE BOARD PROPERLY HELD THE ITU JOINTLY LIABLE FOR THE UNFAIR LABOR PRACTICES FOUND

The facts summarized above show that Locals 38 and 165 demanded that Haverhill and Worcester execute contracts containing the ITU-approved jurisdiction, Laws and foreman clauses. They also show that Vice-President Lyon and International Representative LaMothe of the ITU actively participated in the negotiations and, pursuant to authority vested in them by ITU, called strikes; when satisfied that the publishers would not yield to petitioners' illegal contract demands.

In these circumstances, it is apparent, as the court below found (R. 526), that the illegal demands of Locals 38 and 165 were made pursuant to policies established by the ITU, and that Lyon and LaMothe participated in the negotiations mainly to further these ITU policies. Accordingly, the court below properly approved the Board's finding (R. 458-459) that Locals 38 and 165 did not negotiate independently of the ITU, and that the ITU and its executive council were thus jointly liable for the unfair labor practices found. American Newspaper Publishers Association v. National Labor Relations Board, 193 F. 2d 782, 804-805, (C.A. 7), certiorari denied on this point, 344 U.S. 812.

<sup>&</sup>lt;sup>24</sup> Contrary to petitioners' contention (Br. 44, 47), an international and its locals are not necessarily separate entities for purposes of representation but in appropriate circumstances may be considered joint representatives for purposes of collective bargaining. See in addition to American Newspaper Publishers Association, supra, National Labor Relations Board v. E. A. Laboratories, 188 F. 2d 885, 888 (C.A. 2), certiorari denied, 342 U.S. 871; May Department Stores v. National Labor Relations Board, 326 U.S. 376, 381. Nor does the Board's hold-

Here, as in the cases where both a parent and subsidiary corporation have been held responsible for the commission of unfair labor practices, "What is important \* \* \* is the degree of control over the labor relations in issue exercised by the company charged as a respondent." National Labor Relations Board v. Condenser Corp., 128 F. 2d 67, 71 (C.A. 3). Since the ITU did in fact control Locals 38 and 165 in matters involving the commission of the unfair labor practices here, the Board's remedial order properly reaches it.

#### CONCLUSION

For the foregoing reasons, the judgment of the Court of Appeals should be affirmed.

Respectfully submitted.

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FEBRUARY 1961.

ing in this case mean that an international will always be held responsible for the acts of its locals, notwithstanding that its constitution and bylaws disclaim such responsibility (Br. 43–46). The responsibility of the ITU here rests on the circumstance that, irrespective of its rules, it did in fact assume an active role in the negotiations in this case.

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| 765 (Turkus, Arbitrator)  | 15<br>30<br>25  |
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| Texas & N. O. Ry. Co. v. Brotherhood, 281 U.S. 548<br>United States v. Local 807, IBT, 315 U.S. 521<br>United States v. Rock Royal Co-op., 307 U.S. 533<br>United States v. Rumely, 345 U.S. 71 | 11<br>13<br>11  |
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| Section 8(d) Section 10(e) Section 14(a)  | 24<br>21<br>22. |
| Rules and Regulations and Statements of Procedure<br>of the National Labor Relations Board, Section<br>102.46(b), 24 F.R. 9108  | . 21            |
| discellaneous:  |                 |
| 75 Cong. Rec. 4918 (1932)   |                 |

#### IN THE

# Supreme Court of the United States

No. 340

International Typographical Union, AFL-CIO, Haverhill Typographical Union No. 38, Worcester Typographical Union No. 165, Petitioners,

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Certiorari to the United States Court of Appeals for the First Circuit

#### REPLY BRIEF FOR PETITIONERS

### I. THE GENERAL LAWS CLAUSE IS VALID

The Board's Brief once more introduces some novel theories by which it is asserted the Board's decision and order can be sustained. But the Board carries a heavy burden in attempting to hold contract proposals unlawful. Manifestly, it will not do to speculate that there may be discrimination under them, for this can be said of any agreement, irrespective of its terms.

"Discrimination," by definition, requires a conscious act on the part of an employer or union granting preference to an individual or class on the basis of union membership or non-membership. Because Section 8(a) (3) is limited to that specific kind of discrimination, the illegal preference must be knowingly, i.e., "intentionally" based upon that factor. See, NLRB v. Ford Radio & Mica Corp., 258 F. 2d 457, 461-463 (CA 2); NLRB v. Miami Coca-Cola Bottling Co., 222 F. 2d 341, 344 (CA 5); Osceola Co. Co-op Creamery Ass'n v. NLRB, 251 F. 2d 62, 68 (CA 8); NLRB v. Kaiser Aluminum & Chem. Corp., 217 F. 2d 366, 368 (CA 9). Since the unions' proposals would not, if adopted, have "caused discrimination", and since the Board does not even purport to establish the elements of an "attempt" (analyzed at pages 14-15 of our main brief),1 neither the proposals nor the strikes were an "attempt to cause discrimination". The Board has thus been driven to elaborate formulae, the chief characteristic of which is that they substitute for the objective standard of "discrimination" entirely subjective speculations concerning how other people would regard the agreement.2 These circumlocutions have

Our main brief in this case will be cited hereatter as "Br. The Board's brief will be cited as "Bd. Br."

<sup>2&</sup>quot;the contracting parties could reasonably foresee ... the employees would be more likely to conclude" (Bd. br., p. 15); "... how the employees are apt to view it ..." (p. 16); "... the foreman would be prompted to abide by those rules ... must be deemed to have intended to maintain a closed shop" (p. 17); "... tantamount to incorporating the closed shop provisions ..." (p. 17); "... may be deemed to include those provisions of the laws limiting employment to union members" (p. 21); "... the contracting parties could reasonably foresee ... the employees would not undertake to decide for themselves ... would treat all of the laws as incorporated" (p. 23); "must be deemed to have intended

no basis in the statute and are such vague, and inadequate guides to conduct that they would violate due process if Congress had adopted them. See, e.g., International Harvester Co. v. Kentucky, 234 U.S. 216, 223-24; United States v. Local 807, IBT, 315 U.S. 521, 532: "The state of mind of the truck owners cannot be decisive of the guilt of these defendants."

The new factor introduced by the Board is consistent with this approach, since it also relies on the state of mind of others—now of the employers from whom the unions sought agreement, who are the charging parties in these cases, The Board asserts "it is plain that the publishers in fact understood that . . . petitioners were calling for the execution and enforcement of contracts contemplating closed-shop conditions." (Bd. br. p. 24) It attributes to the publishers the "understanding" that the "not in conflict with law" language was not "intended to exclude the closed shop provisions of the General Laws from this contract." (id. p. 25). No record reference or finding is cited for either of these propositions. And while the em-

to operate under closed shop conditions..." (p. 24); "what the words... are likely to mean to the employees" (p. 26); "... the employees would regard all of the laws as incorporated..." (p. 26); "... the employer could expect that he (the foreman) would use that power" (p. 28); "... if the employer were to agree"... he must be deemed to have intended" (p. 28); "... there would be no reason for him to assume that he did not remain? free ... (p. 28); "... the foreman clause ... contemplated that the foreman would ... (p. 29); "... tantamount to incorporating the closed shop provisions ... (p. 30)."

<sup>&</sup>lt;sup>3</sup> Compare United States v. Local 807, IBT, supra: "To make a fine or prison sentence for the union and its, members contingent upon a finding by the jury that one motive or the other dominated the employers' decision would be a distortion of the legislative purpose." 315 U.S. at 532-33.

ployers' erroneous "understanding" of the laws clause could in no event be determinative of its legality, the dangers of the Board's subjective approach will perhaps be illustrated by examining this latest version.

A. In the Haverhill negotiations the matter was quite The publishers' main objection to the union proposals was to the jurisdiction clause; the laws clause was unsatisfactory to the company because as they "understood the union laws, if you accepted the union laws you accepted jurisdiction." (R. 42) See also R. 49-50. The Board so found. (R. 436) /The objections to the jurisdiction clause were practical. not legal. (R. 43). The Board so found. (RI 436). The only citation in the discussion (Bd. br. pp. 24-25) is to the Board's entire statement of the case; it is not "shown" even in this argumentative and selective narration that the publishers objected to the Laws clause "on the ground that this would establish a closed shop." (Bd. br. p. 24). When, after the strike began, the company brought in Phillips and Parry to represent it, its instructions were consistent with this position. (R. 90-93). Specifically Parry testified that "I don't recall that the closed shop features of the General Laws were discussed". (R. 92) The Examiner's contrary finding (R. 439) is entirely unsupported, and was explicitly excepted (R. 477). The Board allowed it to stand, but, quite properly, does not rely on it here:

If actions speak louder than self-serving declarations ante litem motam, the negotiations at Worcester give no greater support to the Board. For Worcester had previously executed an agreement containing the General Laws clause (R. 130, 351). Indeed, until the end of 1954 the parties had always operated under a contract (R. 171, 419). There is not a shred of evidence that the company believed it was required to discriminate by the previous agreements. There is none that it did so.

After negotiations in 1954 and 1955 had been unsuccessful, Local 165 presented the proposals here involved. The company objected. It believed the proposal would increase costs by half a million dollars, and resisted. particularly, the jurisdiction and Laws clauses. 424). As to the latter it proposed individual negotiation, but its counterproposal did not assert illegality. (R. 371-2). Not until after the unions had declared an impasse and mediators had been called in were legal issues raised (R 427-28). After the union's first strike vote, Mr. Hanson became the company's chief negotiator. He repeatedly said that the Laws clause was illeral. He also said, as the Board notes (Bd. br. p. 8), that management would not take the General Laws in toto. He did not specify which were illegal. (Compare the list in amicus brief of charging party pp. 19-20, with Appendix B in our main brief and Bd. br. #339 pp. 6-7, n. 4). But saying something and "understanding" it are not the same; no evidence to support an "understanding" is cited. Mr. Hanson also expressed the view that the jurisdiction proposal was illegal (R. 117, 119), but even the Board refused to so hold. (R. 481, n. 2).

The statement that these clauses are in "flagrant contempt" of the decree in ANPA v. NLRB, 193 F. 2d 782 (Brief Amicus, p. 21) is wishful thinking. Shortly after the decree in that case was chtered, Mr. Hanson, who is also counsel for the American Newspaper

Publishers Association (see ANPA v. NLRB, 345 U.S. 100, 101), so charged, but the Board, after full investigation, took no action (R. 259). Historically, and with particular vigor since 1944, well before passage of the Taft-Hartley Act (See 86 NLRB at 971, 983), that Association has vigorously fought the concept of the ITU General Laws, doubtless because it believes that their elimination would be economically advantageous to its members. It is entirely understandable that the ANPA should

That Brief quotes Woodruff Randolph, then President of the ITU, as talking of a continuing "struggle with employers to maintain our General Laws as a basis of union shop operations" (pp. 8, 10, n. 12). The precise testimony was:

Employer attitudes on this subject are also demonstrated by the ambivalence of the brief of the respondent News Syndicate in No. 339. See particularly p. 3, n. 4, p. 6, p. 7, p. 8, p. 10, n. 12; The News' final prayer (Id. p. 33), that the judgment below be affirmed, thus demonstrates that when matters of principle are at stake, newspaper publishers, to quote Mr. Dooley, "don't care no more f'r money thin I do f'r m' right eye."

<sup>&</sup>quot;Q. Before the Taft-Hartley Act came into effect, what was your definition of a union shop?

A. A union shop was one employing only members of the union on work processes covered by our jurisdiction.

Q. Isn't it a fact that you used 'union shop' here (in a speech made in 1957) in the traditional sense, in the pre-Taft-Hartley sense?

A. That the employer contracts with us?

Q. That you have had a nation-wide struggle with employers to maintain your general laws as a basis of union shop operations?

A. That means the kind of shop where the employer contracts with us at the present time.

Q. You have changed, then, the definition of 'union shop' by your own words?

A. As I said, it has been corrupted. In no sense do I ever

seek to use Federal legislation to achieve long-sought and cherished objectives. The thrust of the earlier litigation was a contention that enforcement by the ITU of its General Laws constituted "restraint and coercion," an argument which was squarely rejected. See *Matter of ITU*, 86 NLRB 951, 957; *ANPA* v. *NLRB*, 193 F. 2d 782, 800-801 (CA 7).

In this proceeding, Mr. Hanson, now on behalf of Worcester, excepted to the failure of the Trial Examiner "to recommend that Respondent ITU rescind all ITU laws (including any provisions in the Constitution, By-Laws, General Laws or Convention Resolutions) that are in conflict with the Act or that have been used or may be used to thwart such Act." Whether in the face of the decision in the ANPA case, and the proviso to Section 8(b)(1)(A), this represents an "understanding" is not genuinely relevant. The course of events since passage of the Taft-Hartley Act (see our principal brief, p. 16, n. 9. pp. 35, 38-39) could lead only to an "understanding" that these clauses were lawful.

want to mean that kind of a union shop that the Taft-Hartley prohibits. The union shop as it is used any time I use it, means a shop whereby the employer contracts with the local of the I. T. U. for work over which we exercise jurisdiction.

Q. And which work is done by your members only !-

A. No; there are some non-union men around here and there in shops.

Q. However, when I asked you whether you used this 'union shop' term here in the pre-Taft-Hartley sense, I believe you said that you had, and you admitted that you had?

A. I didn't answer that particular question. I didn't say yes to that because pre-Taft-Hartley union shop and closed shop were synonymous'. (R. #339, p. 270, R. this case, p. 300-01, emphasis supplied.)

<sup>5</sup> Exception #23 at p. 6 of the Exceptions of Charging Party, in the full record on file with the clerk.

B. We are thus faced with the contention that the opinion of a single attorney, not shared by attorneys for newspaper publishers generally (R. 260), is dispositive. The ground for his opinion is stated by the · Board to be that adoption of the General Laws clause "would establish a closed shop" (Bd. br. p. 24). Even the Board does not so contend; its argument is that some employees might (erroneously) so conclude. We have set forth in our principal brief (pp. 16-29) the constantly shifting theories by which the Board asserts this clause to be unlawful; we are not informed which of them Mr. Hanson adopts as his own. We suggest that if the opinion of counsel is now to be sought as a substitute for adjudication, the sample should be. . broader than the attorney for the charging party. We "understand" that this clause is lawful, and for what we feel to be sufficient reasons, but we have undertaken. to argue our reasons, not our "understanding."

Like the Board, the charging party in its brief amicus filed in this Court, rests its argument on events occurring in 1947 and 1948. But, as was pointed out in NLRB v. Amalgamated Local 286, etc., 222 F. 2d 95 (CÃ 7),

"It is fundamental that the burden was on the Board to prove the charge made in the complaint, not on respondent to disprove an intention which the Board might arbitrarily choose to read into the agreement... We cannot condone a procedure which attempts to define that intent by grafting onto a contract a disinterred provision of a deceased agreement" (pp. 97-98).

The disinterred remnants of deceased litigation are no more germane. And when the Board relies on testimony given by the President of the ITU in opposition to this legislation (Board br. No. 339, pp. 28-29), it does not merely exceed the bounds of relevancy. It strikes to the heart of our political system—the right to petition Congress for redress of grievances. United States v. Rumely, 345 U.S. 71; Eastern R. Conf. v. Noerr M. Freight, U.S. , 29 LW 4191, 4194-95, slip op. pp. 10-13, (Feb. 20, 1961).

In short, the Board says that the Laws clause is illegal because the *employers* say it is *illegal*, and because the *unions* insisted it was *legal*. To seek confirmation "of the validity of the Board's view" (Bd. br. p. 24) by such reasoning, on this record and these findings; is an act of desperation.

C. A potpourri of history (much of it pre-Taft-Hartley) and surmisings regarding what other people might think or may have thought constitutes the "practical context" which is contrasted (Bd. br. p. 25) with petitioners' "academic" contention that the "plain language of the proviso to the laws clause" means what it says. We think the "practical context" which is relevant to an understanding of the Laws clause is the experience under it. There is no dispute but that it has been in general use since 1948. Prior to this case there were only three instances in which it had been asserted that there had been discriminatory conduct involving local unions of the ITU. In Matter of Kansas City Star Co., 119 NLRB 972, the Trial Examiner recommended dismissal of the complaint, but the Board, with two members dissenting found that certain employees, not covered by the agreement, had been discriminated against. In Honolulu Star-Bulletin v. NLRB, 274 F. 2d 567, 571 (CADC), the Court sustained a finding that one man had been unlawfully discharged. In NLRB v. News Syndicate, 279 F. 2d

323, 334 (CA 2), #339 this Term, the Court upheld a finding that one employee had been denied a single night's work. In both cases the Courts noted substantial evidence to the contrary, and their affirmance can fairly be said to demonstrate scrupulous adherence to the limits of their review powers. And in each case. the Court expressly and decisively found that the hiring practices under the agreement were lawful. 274 F. 2d at 569; 279 F. 2d at 331-334. This is the thirteen year record. More significantly, the discrimination found in those cases, had no relationship to the agreement or to any General Law. In each of them the agreement, and the practices under it, were found Why should the Court speculate to be lawful. how: the proposals here might be enforced, when experience supplies so clear a guide? Surely, if these proposals inevitably (or in any case) had the consequences which the Board attributes to them, some proof of that fact should be forthcoming. What more, under the Act, can the Board demand than that agreements be lawful on their face and that they be lawfully administered?

As stated in 6 Corbin, Contract, Sec. 1533 (pp. 1054-55) (1951),

"If the bargain is one that is capable of being performed lawfully the court will not assume a purpose to perform it in an unlawful manner; proof of such a purpose would have to be made."

And, in the 1958 Supplement at page 153,

"Of course, the presumption is that purposes are lawful, and the contract will be enforced unless defendant asserts and proves the contrary."

The rule is well settled that,

"The burden of showing illegality is upon the party asserting it and it is not sufficient merely to create confusion and suggest doubts as to legality."

Palmer v. Chamberlain, 191 F. 2d 532, 539 (CA 5); see also cases cited in Mailers' br., #339 at p. 20.

This practical experience demonstrates the fallacy of the Board's argument that an improper motive can be found on the basis of events occurring thirteen years ago; indeed, as we have pointed out (Brief in No. 339, pp. 7-8), the Board has made no such finding. Even had it been made, while motive "... is a persuasive interpreter of equivocal conduct" (Texas & N.O. Ry. Co. v. Brotherhood, 281 U.S. 548, 559), where, as here, the conduct is unequivocal "... the existence of a bad motive, in the case of an act which is not itself illegal, will not convert that act into a civil wrong." Lord-Watson in Allen v. Flood [1898] A. C. 1; Eastern R. Conf. v. Noerr' M. Freight. U.S. . 29 LW 4191, 4195, slip op. p. 12 (Feb. 20, 1961); U. S. v. Rock Royal Co-op., 307 U.S. 533, 560.

D. The Board returns to its argument that "the employees would not undertake to decide for themselves which of the laws were excluded as illegal but as a practical matter, not being judges or lawyers, would treat all of the laws as incorporated." (Bd. br. p. 23) If employees would not undertake to make this decision—and we think sensible employees would not wish to engage in this academic speculation—then, "as a practical matter," they would conclude that the terms of their employment were governed by the lawful provisions of the agreement. As a condition of maintain-

ing lawful agreements, the parties are not required to write a treatise on labor law, setting forth the myriad circumstances which can arise and providing satisfactory answers to all of them, with the Board grading the papers by way of a contempt proceeding, particularly when the Board has so clearly demonstrated that it does not itself know the answers. We can not write agreements in such form that they will survive the illiteracies and suspicions which the Board so facilely attributes to employees. By this reasoning a contract provision granting higher wages could be declared illegal because of the Board's assertion that some unidentified nonunion employee might apprehend that the benefit would be extended only to union members.

In its petition for certiorari in News Syndicate the Board stated that "the same technique" as the Laws Clause "was utilized in the National Bituminous Coal Wage Agreement" of the United Mine Workers. Pet. #339, text and note at p. 18, n. 15. The Board's decision in Perry Coal Co., 125 NLRB #110° was cited to show that this clause was unlawful. That decision was reversed in Perry Coal Co. v. NLRB, 284 F. 2d 910.

<sup>&</sup>quot;It is well settled that where, as here, a contract contains an unlawful provision, a general 'savings clause' that does not specify to what extent the provision is intended to be limited will not purge such a provision of its illegal character. Thus, the qualifying language in this provision—'to the extent and in the manner provided by law'. fails to set forth in clear and unambiguous terms limitations on the requirement of union membership that conform the provision to the union-security standards of Section S(a)(3) of the Act. We do not believe that the burden of statutory and judicial interpretation can reasonably be placed upon an employee to be acted upon at his peril. In view of the vague and general savings clause, we conclude that the union-security clause in the National contract provides for an unlawful closed shop." 125 NLRB 1256, 1257.

914, the Seventh Circuit relying on and reaffirming Lewis v. Quality Coal Corp., 270 F. 2d 140, cert. denied, 361 'U.S. 929 (which was also cited by the Second Circuit in News Syndicate, 279 F. 2d 323, 328).

The Board makes no effort to deal with these authorities whose relevance it had asserted in its News Syndicate petition. The Board's brief in that case, its main discussion of the legal issue, attempts to brush them aside (Br. #339, p. 22, n. 13). Its brief herein ignores them entirely, although our opening brief (p. 18) had pointed out that they (and the decisions of the Sixth Circuit and various District Courts also upholding the UMW contracts) repudiated the Board's position, and especially its reliance on Red Star Express, which is still the Board's sole prop. Though the Board bury them, yet these decisions are still in the reports and their reasoning, as well as that of the Second and District of Columbia Circuits, is sounder than that of the Court below.

The holding of the court below (See Bd. br. p. 25, n. 9) rests on its conclusion that "ITU's insistence" that 'Union language must be taken with respect to its general laws' demonstrates that ITU would not approve any contract provision substantially in conflict with its laws" (R. 523). But such a conflict is plainly apparent on the face of the language proposed; i.e., that any General Law "in cenflict with federal... law" was not to be incorporated, and any law calling for closed shop conditions would therefore be excluded in circumstances where enforcement would result in a violation of Federal law. The contract proposal itself thus demonstrates on its face the willingness of the ITU to approve a contract provision "substantially in conflict with [certain of] its laws," coupled with

a clear recognition of the supremacy of Federal law over the General Laws. This is but another facet of the Court's erroneous "incorporation by reference" technique.

E. The eye of the hurricane of this litigation, both past and present, is to be found in the assertion (Bd. br. p. 24) that the Union negotiators stated that they would not "take the book of laws and sit down and negotiate law No. 1, whether it applies to the contract or not, we would not do that" (id., n. 8). This is true enough, but it elides essential problems; it certainly provides no basis for an assertion that the publishers thereby "in fact" understood that this called for closed shop conditions.

As civil society is bound together by its laws, so the Laws of the ITU are the essential cement by which union is achieved. It is conceived that these Laws, for the reasons set forth at pages 12-13 of our principal. brief, when democratically adopted by majority vote of the members, are binding on all local unions and members (except, as they make clear on their face, when their enforcement might result in a violation of law). The artful, and seemingly innocuous, attempt of the employers here—to induce the Union representatives to negotiate them one by one-is a traditional technique. If accepted, it would require local unions to assert a power and authority to set aside or modify the General Laws as they wished, contrary to this basic compact. But if local unions have such power, the entire union structure crumbles; in negotiation after negotiation, the substance of the General Laws could be frittered away, and instead of serving the function of providing decent minimum standards, they would

be merely precatory, if that. This has been, for many generations, the objective of the ANPA: to substitute anarchy for the rule of law, to retrace the painful steps by which the General Laws have reached their present maturity, by picking off, one by one, the weakest local unions and thus debasing working conditions generally. The Board is entirely right in stating that on this issue the ITU has been uncompromisingly intransigent, for what we conceive to be the most valid reasons. This issue goes to the basis of union itself, is intimately entwined with internal union democracy, and represents an effort to retain the achievements of generations of struggle.

Similar considerations apply to the Union's refusal to arbitrate the General Laws (Bd. br. p. 24). problem is developed in the record (R. 96, 277-278). The position of the ITU has been that its General Laws are not subject to arbitration, though the "facts concerning any dispute, whether governed by the contract provision or governed by a law effective through a local commitment, is subject to arbitration and settlement as a finality by the Joint Standing Committee" (R. 96). From 1901 to 1922 they were arbitrable (See Matter of ITU, 86 NLRB 951, 971). The practical consequence was to give a hypothetical example. that when ITU members adopted a General Law calling for a maximum 48 hour week, the matter could be taken before a board of arbitration which might decide that a 56 hour week was warranted. The adoption of a General Law thereby became no more than a state-

<sup>&</sup>lt;sup>7</sup> Randolph gave as an example the General Law on reproduction (see ANPA v. NLRB, 345 U.S. 100, 104) under which there are frequent arbitrations. See, e.g. Philadelphia Daily News and ITU Local #2, 33 LA 765 (Turkus, Arbitrator).

ment of a desired objective, the possibility of effective action was blunted, and the democratically expressed desire of the members was defeated. For these reasons, action was taken to preclude the arbitration of the General Laws. The problem is identical with the relations between courts and legislatures. In performing their important function of interpreting and applying statutes, courts do not undertake to decide what the action of the legislature should have been, but accept the statute as written. here, boards of arbitration may interpret and apply the General Laws when a problem arises, but they are not to act as legislative bodies. We submit that nothing in the Act requires the parties to agree that particular matters must be arbitrated; the distinction here is between arbitrating the terms of a new agreement, and arbitrating controversies that arise under existing agreements. Compare Bus Employees v. Wisconsin Board, 340 U.S. 383, 394-95 with Steelworkers v. American Manufacturing Co., 363 U.S. 564, 566

The alternative proposed by the Union negotiators; i.e., that the parties discuss the conditions covered by the General Laws and negotiate about them (See our principal brief, p. 16, n. 9), was and always has been open. Indeed, contrary to its position here (Bd. br. p. 25, n. 9) the Board recognized that the contract supersedes inconsistent provisions in the Laws, (R. 451, 453). For example, had the publishers had a genuine belief that the Union proposals were intended

<sup>\*</sup>As a result, the Board was driven to tortuous argumentation to avoid the thrust of the nondiscriminatory definition of "journeymen" here (R. 451) and in the Honolula case, 123 NLRB 395, 399, reversed, 274 F. 2d 567.

to create closed-shop conditions, it was open to them to propose the language contained in the agreement in Honolulu Star-Bulketin v. NLRB, 274 F. 2d 567, 569, that "The term 'journeymen' and 'apprentices' shall in ne way be understood to apply exclusively to members of the International Typographical Union"; as the Court noted (at page 569), that agreement had been approved by the ITU. The General Laws clause on its face and the testimony in this case, clearly shows that such contract provisions, if agreed to, override any specific General Law (See R. 210-212, 274-277, 279-280, 451, 453; Matter of ITU, 86 NLRB 951, 970; Honolulu Star-Bulletin v. NLRB, 274 F. 2d 567, 569). have pointed out (Br. p. 27), the Union proposals, by defining journeymen and apprentices in non-discriminatory terms, would override any closed shop provisions of the General Laws.

The most glaring omission in the Board's brief is its failure to cite any record evidence indicating that the Unions intended that these proposals be unlawfully applied; the contrary clearly appears (See Br., p. 16, n. 9). An asserted publishers' "understanding", not found to exist by the Board, is not a substitute. Despite the clear language of the proposals and all the evidence of record, the Board and the court below nonetheless adopt the technique of elaborate speculation as to what was probably intended, and this before any executed agreement is available for analysis. The Board attempts a strange tour de force in arguing (Bd. br. p. 24) that the Unions' "intransigeance" in insisting on the legality of their conduct somehow demonstrates an illegal motivation.

In sum, "In the practical context which the Board" should have considered, its inability to read and understand "the plain language of the proviso to the laws clause" (Bd. br. p. 25) is not "academic"; it is sophomoric.

### II. THE FOREMAN CLAUSES ARE VALID.

The Board meets our contention that it must be presumed that foremen will act lawfully, rather than the contrary, by stating that this could be true "only where, unlike here, the employer had not delegated complete control over hiring to the foreman, but had prescribed some standards for the discharge of that. function or had otherwise reserved control over it" (Bd. br. p. 28). As we demonstrated in offr principal brief (p. 31), the employers here had Union foremen. by their voluntary choice and without the compulsion of an agreement or other Union action. The Union proposals were that the status quo be continued, and that non-discriminatory standards of hiring, based on competence and experience, be adopted (Br. p. 27): It is ironic that the Board should insist that the Unions' action (in seeking by agreement non-discriminatory standards for hire) constitutes a delegation of "complete control to the foreman;" if foremen are as intent on violating the Act as the Board would have this Court believe, the Unions' proposals are clearly in aid of the statutory purpose. "Complete delegation" preceded, but would not follow, acceptance of the proposals here made. Essentially, the Board's argument is that the publishers violated the Act by unilaterally engaging a Union foreman.

The Board's argument is summarized in its statement (Bd.(br. p. 28) that "if, as here, the foreman were given the power (over hire) without more, there would be

no reason for him to assume that he did not remain free to exercise it in accord with his obligations as a union member . . . ." There are compelling reasons for assuming the opposite.

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First is the presumption that the citizen will obey the law. Since the Act forbids discrimination in hire, the presumption is that the foreman would not discriminate. "But a mere power to discriminate is not illegal as even the Board appears to recognize" News Syndicate, at page 330.

Second is the agreement. As we have shown in our principal brief (p. 27) the contract proposals made by the Unions plainly stated on their face that hire was to be based on competence and experience, not Union membership or non-membership. For reasons which are obscure, the Board asserts (Bd. br. p. 30) that "the foreman clause was coupled with the General Laws clause". The Board made no such finding, but assuming its correctness, the foreman would be aware, from the form of that clause, that any General Law calling for discrimination in hire was suspended. The foreman would be bound to the agreement above any Union obligations.

Third, foremen have no such "obligation" as Union members. As early as 1948, the Court in *Evans* v. *ITU*, 81 F. Supp. 675, 681, 683-685, (N.D. Ind.) noted that a then-existing oath of membership which, it was claimed, required forement to discriminate had been

<sup>9&</sup>quot; Potentiality to commit an act cannot be used as a substitute for proof of the act itself. While it has been said that every person has a little larceny in bis heart, not even a cynic would attempt to procure a conviction on that ground alone." Anheuser-Busch, Inc. v. Federal Trade Commission, — F. 2d — Slip Op. p. 13 (CA 7, Jan. 25, 1961) (on remand from 363 U.S. 536).

abrogated. And see Matter of ITU, 86 NLRB 951, 1020, n. 60. Article XII of the Constitution which required members to prefer other members in hire was repealed in 1953 (R. 270). We have already sufficiently discussed the proviso to the General Laws clause which also makes it clear that discrimination in hire is not required, and the amendment of the General Laws, by the addition of Article XIV, which makes clear that any General Law which may be interpreted to require discrimination in hire, where such action would be unlawful, is suspended. How often will the Board require that this be made clear? If saying it in four different ways is insufficient, what will satisfy the Board? Or are we to assume that only a declaration compelled by a Board Order is enough?

And the fourth is demonstrated experience. Honolulu Star-Bulletin (at page 570) and News Syndicate (at pages 331-334) both show that Union foremen do, in fact, perform their duties in non-discriminatory fashion. The Board's speculative hypothesis assumes that foremen would disregard the requirements of law, the agreement between the parties, the oft-repeated position of the ITU, and practical industrial experience in order to discriminate in hire. This per se rule is yet another instance of the Board's "mental pole vaulting with only a presumption as a pole". NLRB v. Insurance Agents, 361 U.S. 477, 482-83, n. 4 & 5. Since the presumption here is that a citizen will violate the law (Enterprise Industrial Piping, 117 NLRB 995) it is doubly offensive. 19

to Honolulu Star-Bulletin and News Syndicate, which we have shown (Br. p. 34) reject the Enterprise "principle." In United States Steel Corp. v. NLRB, No. 311, this Term, petitioners rely on Honolulu as establishing a conflict. (Pet. for cert. pp. 12-13).

The Board's brief (p. 32) now embraces the ground of decision adopted by the court below (R. 522) (but not relied on by the Board theretofore) that the "effect of the (foreman) clause would be to cause the employers to discriminate in favor of union men thereby encouraging aspirants for that position to join the union" (See our principal brief, pp. 36, 37). This was not put in issue by the complaint (Morgan v. U. S.. 304 U.S. 1: Consolidated Edison v. NLRB, 305 U.S. 197, 238); was not found by the Trial Examiner (R. 449); and no party excepted to the failure to so find. See § 102.46(b) of the Board's Rules and Regulations by which the Board is, of course, bound. Vitarelli v. Seaton, 359 U.S. 535. This policy is embodied in § 10(e). NLRB v. Cheney Cal. Lumber Co., 327 U.S. 385 and other cases cited in pet. for cert. in NLRB v. Brandman Iron Co., #646, this Term, p. 6. And the Board did not so find (See R. 480-481). An examination of Pacific Shipowners Association, 98 NLRB 582. demonstrates that the Board has rejected this ground of decision, as we said in our principal brief (p. 36). The Board's reliance on a dictum therein (Bd. br. p. 32, in. 16), dealing with an entirely different set of facts. to support the decision of the court below does no more than indicate the Board's eagerness to show that the conduct here complained of was unlawful by any means.11 Indeed, Pacific Shipowners additionally re-

The Board, however, says that it does "not conflict in principle with decision here" (in U.S. Steel) but is "distinguishable on its facts." (Memorandum for NLRB in Opposition, p. 3, n. 2). In each of the other cases cited here by the Board there were findings of actual discrimination.

<sup>&</sup>lt;sup>11</sup> Since our principal brief was filed, the Court of Appeals for the District of Columbia Circuit enforced, with modifications, the Board's order in *Detroit Association of Plumbing Contractors*, 127

futes the Board's metaphysical contention (critical to its 8(b) (2) and 8(b) (1) (B) arguments) that the foreman clause would limit the employer's choice of supervisors in a sense cognizable by the statute. (Bd. br. p. 33, n. 17; pp. 39-40, n. 22). The opinion made clear that the statutory exclusion involved both being and becoming a "supervisor". 98 NLRB at 596-97.

# III. THE STATUTORY OBLIGATION TO BARGAIN WAS FULFILLED.

While the demonstrated legality of the Laws and foreman clauses disposes of the case, as the Board's restatement of the Questions Presented (Bd. br. pp. 4-5) correctly recognizes, a few words on the Board's discussion of the refusal to bargain issue (which is not involved in #339) will not be amiss.

Most significant is what the Board does not say. Its brief makes no mention of NLRB v. Insurance Agents, 361 U.S. 477, this Court's recent and thorough

NLRB No. 28, cited at p. 35. Local 636, Plumbers, v. NLRB, .... F. 2d ...., 47 LRRM 2757 (January 19, 1961). The Board has not cited this case in its subsequently-filed brief, though we concede that the opinion is in certain respects at variance with our argument herein. We shall not therefore undertake to demonstrate what we feel to be the numerous errors in that opinion, the most serious of which is the holding that Section 14 (a) of the Act limits supervisors to non-participating membership in unions. Id. at 2762. This is not "the basis which they enjoyed before passage of the Wagner Act" (See our principal brief, pp. 31, 33). The Board fails even to mention in its brief the impact of the amendments to Sections 2(3), 2(11) and 14 (a) of the Act in 1947.

Indeed, the Board seeks to establish infringement of employees' Section 7 rights on the authority of a case decided before these amendments removed supervisors from the definition of employee. (Bd. br. p. 33, n. 18). This silence almost of necessity precludes further discussion of this issue.

analysis of the obligation to bargain. We think this case is decisive; it holds that the Board may not intrude itself into the "substantive aspects of the bargaining process" (id. at 498). (Br. pp. 29, 39, 48). And it defines a union's obligation to bargain in terms which were clearly satisfied here. For it is conceded by the Board and the Court below that the unions "approached the bargaining table with [an] attitude of willingness to reach agreement." (id. 487).12

The Board's sole citation (Bd. br. p. 34) of the other leading case, NLRB v. American National Ins. Co., 343 U.S. 395, is in support of a proposition which this Court expressly "put aside" and which is therefore not "settled." <sup>13</sup> (Bd. br. p. 35) We reassert that the Board's approach here and the standard applied by the Court below (R. 522) <sup>14</sup> cannot be squared with that decision.

<sup>&</sup>lt;sup>12</sup> There is no finding here, as in the ANPA case (to which reference is made at 361 U.S. 487, n. 13) that the union entered into "negotiations with a fixed and determined purpose of avoiding the making of an agreement." 193 F. 2d 782, 804.

<sup>13</sup> NLRB v. National Maritime Union, 78 NLRB 971, enf'd 175 F. 2d 686, (CA 2) cert. denied, 338 U.S. 954, (Bd. br. p. 34) is not, in any event, in point-since the Board found that the NMU insisted on the perpetuation of an illegal hiring arrangement with the intention that it continue to be applied discriminatorily. 78 NLRB at 977, 978, 982. The Court of Appeals did not discuss this issue.

<sup>&</sup>lt;sup>14</sup> Indeed, we suggest that the discussion at R. 522-23 and R. 525-26 is inconsistent with the Court's own analysis of the duty to bargain in connection with the jurisdiction clause. (R. 520) And since the clauses were concededly of "honestly disputable validity" (R. 525, Bd. br. p. 15), and "good faith" is the statutory standard, we think there is more eloquence than reason in the statement that "to hold that good faith is a defense to the charge of refusal to bargain when the contract provision insisted on is illegal per se is to put a premium on ignorance of the law or blind intransigency." (R. 522-23).

The reach of the Board's argument from NLRB v. Wooster Division of Borg-Warner, 356 U.S. 342 (Bd. br. pp. 35-36) is not clear. If it is intended to suggest that the matters here in issue were not subjects of "mandatory bargaining" within the meaning of that case (356 U.S. at 349) the argument is not open on this record. The Trial Examiner made no such finding; the General Counsel specifically excepted to his failure to do so (See Exceptions to Intermediate Report of General Counsel, No. 5), but the Board made no such finding. In any event, it is clear that matters such as apprenticeships, priority, hire, discharge and the other areas covered by the General Laws and the duties of the foreman are embraced within "other terms and conditions of employment," as set forth in Section 8(d). Thus as to these matters, while bargaining is required, agreement is not, and either party may insist upon its version of the substantive bargain, including adherence to the General Laws upon any subject not covered by the agreement, at least so long as it has . been made clear that no General Law is to apply where its enforcement might result in a violation of law. Agreement upon these subject matters as proposed by the Unions does not detract from an obligation imposed by the statute, as was true of the recognition clause in Borg-Warner, nor does it interfere with representation rights, as this Court said of the "ballot" clause in that case (See p. 350). They are the traditional stuff of collective bargaining. As the Court made plain in NLRB v. Insurance Agents, 361 U.S. 477, at 487, Borg-Warner still is based on the principle that the obligation under Section 8 (b)(3) is to bargain in "good faith." Here "good faith" was expressly found. (R. 256; 517, 525).

## IV. THE ITU IS NOT A BARGAINING REPRESENTATIVE OF THESE EMPLOYEES.

The Board declares that its "holding in this case" does not mean "that an international will always be held responsible for the acts of its locals, notwithstanding that its constitution and by-laws disclaim such responsibility" (Bd. br. pp. 42-43, n. 24). We are pleased to learn this, but are puzzled what the criteria for decision are, since the Board adheres to its view that the ITU is responsible. It cannot be that ITU officials "pursuant to authority vested in them by the ITU, called strikes," (Bd. br. p. 42). We have shown that they had no such authority, Br. p. 44, par. (g), and while they sanctioned, did not call, the strikes for which the members of the locals had voted in both instances. (R. 100, 224). Nor can it be because "Lyon and La Mothe participated in the negotiations mainly to further" these [allegedly illegal] policies. (Bd. br. p. 42. emphasis supplied). The Board did not so find (See R. 459), and their actual role was as set forth at p. 44, par. (f) of our brief. Indeed, to the extent that. illegality is sought to be predicated on the foreman clause, it may be noted that the approved contract in the Honolulu case did not require the union member to be a foreman.15

<sup>&</sup>lt;sup>15</sup> See Joint Appendix, Honolulu Star-Bulletin v. NLRB, CADC #15,044, p. 159. The amicus brief in this case relies also on the communications sent by the President of JTU advising that the foreman clause was not an issue in the strike at Worcester. (Br. amicus, p. 23). Since the Board would have instituted contempt proceedings if they had not been sent it would have been "the most indefensible sort of entrapment" for the Board to draw any inference of ITU responsibility from them. Compare Raley v. Ohio, 360 U.S. 423, 438. The Board properly did not do so.

The cases cited by the Board (Bd. br. p. 42, n. 24) do not shake our conviction that an international and one of its locals cannot both be the exclusive bargaining agent of the same employees. (Br. pp. 44-48). We have previously discussed ANPA (Br. p. 46). In May Department Stores v. NLRB, 326 U.S. 376, 381 a Joint Board consisting of several unions, had been certified as the single bargaining representative. In NLRB v. E. A. Laboratories, 188 F. 2d 885, 888 the Board ordered the employer to bargain with the International alone, the Local being defunct. 18

### V. THE BOARD'S UNLAWFULLY BROAD ORDER COMPOUNDS AND REFLECTS ITS ERRORS ON THE MERITS.

The Board says that its Order is "well adapted to the situation which calls for redress" (Br. 40). The Board throughout insists that the "situation which calls for redress" is that some unidentified employees might mis-read the plain language of the agreement. If these employees cannot read an agreement, what warrant is there for assuming that they can read an Order?

The Order (R. 482, 484) proposes that these employees are to be told in four separate paragraphs (I(a)(2), (3); II(a)(2), (3)) that the petitioners are not to violate "Section 8(a)(3) of the Act". Will this give them the blissful reassurance which "not in conflict with law" does not? The Order is, indeed,

national had originally both been parties to the agreement, by their own choice. Compare Borg-Warner, 113 NLRB 1288, aff'd 356 U.S. 342: "The Respondent recognized that the Local and the International were, in fact, separate entities... the recognition clause originally proposed by the International included the name of the Local as a separate party whereas the certification did not do so." 113 NLRB at 1292-93. (emphasis supplied)

woefully inadequate to the "situation which calls for redress"; the only appropriate remedy in the reumstances would be the establishment of labor law institutes at which all present and potential employees in this industry could be taught that language means what it says and that, under the Act, the contract proposals here in issue can be, and have been, lawfully applied. It might, of course, be difficult to staff such schools. when the instructors would be aware that any misstatement of applicable precedents would bring "the swift retribution of contempt" NLRB v. Stowe Spinning Co., 336 U.S. 226, 233; but many hours of gainful employment would be created by interesting discussions as to which of the General Laws might be lawfully or unlawfully applied and under what circumstances.

The Board's discussion rather artfully suggests that only a stubborn refusal of the ITU to modify certain language in its General Laws is involved, and that if it would be complaisant and undertake this simple task, all would be well. But we have shown that this massive assault on the General Laws involves basic and important questions. (pp. 14-16, supra.)

a. First, and perhaps most important, is the extent of the Board's power to supervise the collective bargaining process. By insisting that the proposed General Laws clause incorporates in the agreement matters specifically excluded therefrom, contrary to the rule in Guerini Stone Co. v. P. J. Carlin Construction Co., 240 U.S. 264, 277, the Board is asserting a general power to intermeddle in the negotiation of agreements, contrary, we assert, to the rule iaid down by this Court in

NLRB v. American Insurance Co., 343 U.S. 395, 404; Carpenters' Union v. NLRB, 357 U.S. 93, 108; Teamsters Union v. Oliver, 358 U.S. 283, 295; NLRB v. Insurance Agents, 361 U.S. 477, 490, 498. We have discussed this issue passim in our principal brief.

b. Of substantially equal importance is the power of the Board to interfere in internal Union affairs, a matter which the Congress expressly left untouched by the statute (See our principal brief, p. 21, n. 12). It is not disputed that all General Laws can be validly applied under certain circumstances. If, and when, (as has not yet occurred), some General Law is illegally applied, the sanctions of the Act will be available. We assert that the democratic right of Union members to adopt such rules for their governance as they choose, free of Government supervision, is a weightier consideration than the slight chance that such freedom may result in a violation of law. When one recalls the critical importance of the issue of Governmental control of the internal affairs of trade unions in the comparatively recent history of Soviet Russia, Fascist Italy, Nazi Germany and other countries, the Board's insensitivity to the problems with which it deals is revealed by its dismissal of this subject as "somewhat academie" (Bd. br. p. 25).

c. The Board suggests that its concern is with the language, not the substance, of the General Laws. (Bd. br. p. 41). Nothing could be further from the truth. Pursuant to a decree of a District Court, (Alpert v. ITU, 161 F. Supp. 427), revised General Laws, containing no requirements of union membership for employment, were submitted. They were referred by the

Court to the Board's General Counsel for comment." and as the Court noted thereafter.

"... the number of items which petitioner (General Counsel) still contests are extensive; indeed, petitioner now objects to more than he did originally. I will not, and in my opinion could not, revise and rewrite the General Laws into some new form that might or might not meet the future approval of the parties ..." (at page 432, emphasis supplied).

Concluding that it was impossible to satisfy the Board' on this issue, the Court thereupon relieved the union of a stipulation that it attempt to do so, in order that collective bargaining to settle a strike might proceed. This is the "definite standard" which the Board has provided (Bd. br. p. 41). See also Appendix B to our principal brief whose significance the Board entirely ignores. It is entirely plain that contempt action will follow if this task is attempted. The impossibility of compliance is neatly illustrated by the last two cases set forth in Appendix B: Tribune Publishing Co., et al., 20-CA-1553, etc., Newspaper Agency Corp., et al., 20-CA-1556, etc. The complaints in those cases were issued on the same day, by the same Regional Office, and were signed by the same person. Each attacks a different set of laws.

These comments attacked thirty-seven of the General Laws as revised, including Article I, Section 1 which, as we noted in our main brief (pp. 25-26), was designed to prevent the exploitation of child labor. The General Counsel appended these comments to his brief to the Board in this case, on file with the clerk of this Court. They are instructive as the furthest reach to date of the Board's technique of surmise and suspicion. Yet the ingenuity of the Board and its agents is such that we may expect even wilder flights of fancy if this Court does not call a halt in the ITU cases and in Local 357, IBT v. NLRB, No. 64, this Term.

The Board's Mountain Pacific, 119 NLRB 883 and Pacific Intermountain Express, 107 NLRB 837 doctrines, and its conduct in these cases, demonstrate a consistent effort to drive unions from any meaningful participation in decisions affecting industrial enterprises. It is our view that the national labor policythe encouragement of collective bargaining-looks in an exactly opposite direction, to greater sharing in the making of such decisions. Under such a policy the dignity of workers is enhanced, industrial strife is avoided, and responsible citizenship is encouraged. At bottom, the Board embraces the feudal concept of master and serf. It attempts to achieve these results by mis-reading the decisions of this Court in Radio Officers and in Borg-Warner; the former as eliminating the words "by discrimination" in Section 8(a)(3) and the latter as curtailing the freedom to bargain, when that case dealt solely with the Board's power to compel bargaining in aid of the statutory purpose. (See Bd. br. pp. 35-36).

The architect of the national labor policy, Senator Wagner, set forth its true goal during the debates on the Norris-LaGuardia Act:18

"We can raise a race of men who are economically as well as politically free. By permitting labor to organize freely and effectively we can convert the relation of master and servant into an equal and co-operative partnership, shouldering alike the responsibilities of management and sharing alike in the rewards of increasing production.

"To me the organization of labor holds forth far greater possibilities than shorter hours and better wages. Organization plants in the heart of every worker a sense of power and individuality, a feel-

<sup>18 75</sup> Cong. Rec. 4918 (1932):

ing of freedom and security, which are the characteristics of the kind of men Divine Providence intended us to be."

#### CONCLUSION

For the reasons stated in our principal brief and herein, we submit that the answer to the Board's principal question (Bd. br. p. 4), "Whether the Board properly concluded that acceptance of the proposed Laws and foreman clauses would have established an employment system which conditioned employment upon union membership, in violation of Section 8(a) (3) and 8(b)(2) of the National Labor Relations Act" is "No." Our principal ground is the demonstration, which is not and cannot be challenged here, that such agreements can be and have been lawfully applied and that speculation concerning the manner in which they might be administered is therefore entirely inappropriate. We agree with the Board that the remaining questions presented (Bd. br. p. 5) are reached only if the principal question is answered in the affirmative; the answer to them is also "No."

## Respectfully submitted,

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MAY 12 1961

### IN THE

## Supreme Court of the United States

OCTOBER TERM, 1960

No. 340

INTERNATIONAL TYPOGRAPHICAL UNION, AFL-CIO HAVERHILL TYPOGRAPHICAL UNION No. 38 WORCESTER TYPOGRAPHICAL UNION No. 165, Petitioners

NATIONAL LABOR RELATIONS BOARD, Respondent

On Writ of Certicrari to the United States Court of Appeals for the First Circuit

PETITION FOR REHEARING OR TO AMEND THE MANDATE

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On Writ of Certiorari to the United States Court of Appeals for the First Circuit

# PETITION FOR REHEARING OR TO AMEND THE MANDATE

1. On April 17, 1961, this Court handed down its opinion in this case. It stated (Slip Opinion, page 2) that

"We turn then to the controversy over the foreman clause. As to whether the strike to obtain the foreman clause was permissible, the Court is equally divided. Accordingly, the judgment on that phase of the controversy is affirmed."

This petition is addressed solely to that issue, (question #2 in the Petition for Certiorari) and to the footnoted issues, which were not passed on by the

Court. We urge that the Court grant rehearing, set the case for reargument and determine the issues which, perforce, remain unresolved in consequence of the equal division of the Court. Etting v. Bank of the United States, 11 Wheat. 59, 78; Hertz v. Woodman, 218 U.S. 205, 213. This course has frequently been followed where a full court would be available for the reargument, as we assume is the situation here. See, e.g., Gray v. Powell, 312 U.S. 666, 313 U.S. 596, 314 U.S. 402; Halliburton Co. v. Walker, 326 U.S. 696, 327 U.S. 812, 329 U.S. 1; Ladner v. United States, 355 U.S. 282, 356 U.S. 969, 358 U.S. 169.

The issue whether the demand for a contract clause requiring the union membership of a foreman is a permissible strike issue is of considerable practical importance. Congress, in enacting the 1947 amendments, was particularly concerned with the status of supervisors under the Act. In many industries, particularly those which were organized by craft unions prior to the Wagner Act, collective bargaining agreements traditionally have provided that, the foreman shall be a union member. As the record shows (R. 272-74, 299) there are important economic reasons

See Petition for Certiorari, pp. 2-3. The Board's order, as affirmed by the Court of Appeals, may be read to forbid insistence on the foreman clauses in toto, including the provisions prescribing the duties of the foreman and protecting him from discipline by the union. (R. 527, 528). Since the unfair labor practices found, as sustained by an equally divided Court, pertain only to the requirement of union membership, the Court should direct that the order be modified accordingly. See pp. 41-42 of our main brief. The other footnoted issue, the responsibility of the International, also merits consideration. Since the legality of the General Laws clause has now been sustained, and there is no finding that the ITU insisted that its locals adopt the foreman clause, attribution of responsibility to the ITU is without foundation in law or this record.

in this industry for having foremen who are union members, a fact not controverted by either the employers, the Board or the First Circuit in this case. See also cases and treatises cited at p. 35, n. 23 of Petitioners' Brief.

An additional question of considerable general importance is subsumed in this issue: May a strike for a contract proposal be forbidden, although the parties could lawfully agree upon that proposal? When the original briefs in this case were filed, attention was necessarily directed principally to the legality of the proposals, the decisions of the Board and the Court below having been predicated on their illegality. Now that this Court has held in the companion News Syndicate case (#339, this Term) that the foreman clauses are lawful, this question is presented in sharp focus. A determination that a union may not strike for lawful proposals (which is the present result in this case) would have serious implications for collective bargaining. If one party is denied the use of economic power with respect to a proposal, its acceptance or rejection is left entirely to the unilateral determination of the other party. We submit that this is contrary to the traditions of collective bargaining as developed in NERB v. Insurance Agents Union, 361 U.S. 477 2, and would extend the limitations on the right to strike beyond those delineated in NLRB v. Drivers Local Union, 362 U.S. 274.

ons that may be used as part of collective bargaining, it would be in a position to exercise considerable influence upon the substantive terms on which the parties contract. As the parties' own devices became more limited, the Government might have to enter even more directly into the negotiation of collective agreements. Our labor policy is not presently erected on a foundation of government control of the results of negotiations," Id. at 490.

What has already been decided also clarifies another matter, intimately related to the right to strike: As this case now stands, the unions are found guilty of an unfair labor practice, by engaging in a strike which was admittedly for many proposals, all of them lawful. See pp. 40-41 of our opening brief.

2. If the Court chooses not to grant reargument we urge that it amend its mandate to direct the Court below to remand the case to the Board for reconsideration in the light of the decision in News Syndicate and on the General Laws clause in this case. We submit that this course is required by settled principles of the proper relationship between the courts and administrative agencies. Securities Exchange Commission v. Chenery Corp., 318 U.S. 80; 332 U.S. 194; American Trucking Associations v. United States, 364 U.S. 1.

The Board's order on the foreman clause was based. as we read it, and as the Board in its brief to this Court read it, on the premise that the foreman clause was unlawful. (R. 449). The decision in News Syndicate has destroyed this premise. Accordingly, the Board's order may not be enforced on other grounds; the Board must be given the opportunity to determine in the first instance whether it would have achieved this result despite the holding that the foreman clause is lawful. S.E.C. v. Chenery Corp., 318 U.S. 80, 87; American Trucking Associations v. U.S., 364 U.S. 1, 13-14. Even if the Board's decision is not viewed as resting entirely on the illegality of the clause, the uncertainty as to its meaning-on which the Court below expressly remarked (R. 521)—necessitates a remand. S.E.C. v. Chenery Corp., 318 U.S. 80, 94-95; 332 U.S. 196-97.

<sup>&</sup>lt;sup>3</sup> This point was preserved in the Petition for Certiorari and discussed in the briefs. See Pet. pp. 13-14, Brief for Petitioners, p. 30,

While it is the decision of the Board which is under review, we note also that the opinion of the Court of Appeals, enforcing this part of the Board's order, was based on two premises, of which one is undermined by this Court's decision in News Syndicate, and the other is unsupported by either findings or record evidence.

Moreover, the Board has not considered whether the strike may be held to be unlawful although the foreman clause was not its sole, indeed not even its major, object. Since the Board had found that the jurisdiction, laws and foreman clauses were each unlawful it did not particularize further as to which of these was the principal object of the strike. Indeed, there was a finding that the jurisdiction clause was the "primary" point of dispute among the parties and another, inconsistent finding that the jurisdiction, foreman and laws clauses were the "primary" objects. (Compare

<sup>\*</sup>The First Circuit said that the clause "would also give the union power to force the discharge or demotion of a foreman by expelling him from the union." (R. 522). In News Syndicate this Court held that the provision of the contract that "The union shall not discipline the foreman for carrying out the instructions of the publishers," (which was also contained in the proposals here, R. 350, 403) made the foreman solely the agent of management (slip. op. pp. 1, 4). See also 279 F.2d 323, 330.

The First Circuit said that the clause would "limit the employers' choice of foremen to union members." (R. 521-2). There is no such finding by the Board. See Reply brief, p. 21. Indeed, the objection of the employer in Worcester, to the extent it was articulated, was based on the ground of illegality which was rejected in News Syndicate (R. 433). This illustrates, we believe, the danger of determining the legality of contract language (and a fortiori of strikes for such language) before the parties have had an opportunity to clarify their intentions by their conduct pursuant thereto. See Local 357 v. NLRB, Nos. 64 and 85, concurring opinion, pp. 1-2.

R. 444 with R. 458): Further, since the Board often decides not to enter a remedial order even where an unfair labor practice has been found, when that practice is an insignificant part of a transaction, we think that these principles of administrative law require that the Board be given the opportunity to determine whether it will exercise its discretion in this case after the major portions of its order have been set aside. Phelps Dodge Co. v. NLRB, 313 U.S. 177, 196-200; American Trucking Associations v. United States, 364 U.S. 1, 16-17. This, indeed, was the course taken by the Second Circuit in News Syndicate, 279 F.-2d 323, 334. and by the District of Columbia Circuit in Honolulu Star-Bulletin, Ltd. v. NLRB, 274 F. 2d 567, 571-72. It should, of course, be open to the Board on remand to reconsider the responsibility of the International and all other issues which were not disposed of by a majority of the Court in this case and News Syndicate. FCC v. Pottsville Broadcasting Corp., 309 U.S. 134: Ford Motor Company v. NLRB, 305 U.S. 364.

### Respectfully submitted,

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I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

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# SUPREME COURT OF THE UNITED STATES

No. 340.—OCTOBER TERM, 1960.

International Typographical Union, AFL-CIO, Haverhill Typographi- On Writ of Certiocal Union No. 38 and Worcester Typographical Union No. Petitioner.

rari to the United States Court of Appeals for the First Circuit.

National Labor Relations Board.

[April 17, 1961.]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This case involves a controversy that started in 1956 between petitioner Local 165 and the Worcester Telegram and between petitioner Local 38 and Haverhill Gazette. The two unions insisted that the collective bargaining agreements that were being negotiated contain clauses or provisions to which each employer objected. The controversy as it reaches here is reduced to two clauses: first, that the hiring for the composing room be in the hands of the foreman; that he must be a member of the union; but that the union "shall not discipline the foreman for carrying out written instructions of the publisher or his representative authorized by this Agreement"; and second that the General Laws of the International Typographical Union shall govern the relations between the parties if they are "not in conflict with state or federal law." The unions' demand that these clauses be included in the agreement led to a deadlock in the negotiations which in turn resulted in a strike.

The employers filed charges with the Board, complaints were issued, the cases consolidated, and hearings held. The Board concluded that the demands for the

two clauses and the strikes supporting them were violations of the Act. It found that a demand for a contract that included those clauses was a refusal to bargaincollectively within the meaning of \$8 (b)(3) of the-National Labor Relations Act, as amended by the Taft-Hartley Act, 61 Stat. 136, 141, 29 U. S. C. \$ 138 (b)(3). It found that striking to force acceptance of those clauses was an attempt to make the employers discriminate in favor of union members contrary to the command of §.8 (b)(2) of the Act. It also found that striking for the "foreman clause" was restraining and coercing the employers in the selection of their representatives for the adjustment of grievances in violation of §8 (b)(1)(B) of the Act. 123 N. L. R. B. 806. The Court of Appeals enforced the Board's order apart from features not material here. 278 F. 2d 6. The case is here on certiorari, 364 U.S. 878.

What we have said in Labor Board v. News Syndicate Co., decided this day, ante, p.—, is dispositive of the clause which incorporates the General Laws of the parent union "not in conflict, with state or federal law." On that phase of the case the judgment below must be reversed.

Mr. JUSTICE CLARK and Mr. JUSTICE WHITTAKER dissent, substantially for the reasons stated by the Court of Appeals, 278 F. 2d 6.

We turn then to the controversy over the foremen clause. As to whether the strike to obtain the foremen clause was permissible, the Court is equally divided. Accordingly the judgment on that phase of the controversy is affirmed.

Reversed in part and affirmed in part.

MR. JUSTICE FRANKFURTER took no part in the consideration of decision of this case.

# SUPREME COURT OF THE UNITED STATES

No. 340.—Остовек Текм, 1960.

International Typographical Union, AFL-CIO, Haverhill Typographical Union No. 38 and Worcester Typographical Union No. 165, Petitioner,

On Writ of Certiorari to the United States Court of Appeals for the First Circuit.

National Labor Relations Board.

[April 17, 1961.]

MR. JUSTICE HARLAN, whom, MR. JUSTICE STEWART joins, concurring.

I join the Court's opinion upon the basis set forth in my concurring opinions in No. 339, ante, p. —, and in Nos. 64 and 85, ante, p. —.